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Ontario. Legislative assembly
Sessional papers

SESSIONAL PAPERS

VOL. XXXIII—PART VIII.

FOURTH SESSION, NINTH LEGISLATURE

OF THE

PROVINCE OF ONTARIO.

SESSION 1901.

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No. 2.. Estimates (*Vote of Credit*) for the year 1901. Presented to the Legislature, 12th February, 1901. *Not Printed.* Estimates for the year 1901. Presented to the Legislature, 18th February, 1901. *Printed.* Estimates —Supplementary. Presented to the Legislature, 2nd April, 1901. *Printed.*

No. 3.. Report of the Commissioner of Crown Lands for the year 1900. Presented to the Legislature, 22nd March, 1901. *Printed.*

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No. 5.. Report of the Bureau of Mines for the year 1900. Presented to the Legislature, 21st March, 1901. *Printed.*

No. 6.. Report of the Commissioners for the Queen Victoria Niagara Falls Park for the year 1900. Presented to the Legislature, 19th March, 1901. *Printed.*

No. 7.. Report of the Commissioner of Public Works for the year 1900. Presented to the Legislature, 19th March, 1901. *Printed.*

No 8.. Report of the Inspectors of Factories for the year 1900. Presented to the Legislature, 1st April, 1901. *Printed.*

No 9.. Report upon the Registration of Births, Marriages and Deaths in the Province, for the year 1900. Presented to the Legislature, 13th February, 1901. *Printed*

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No. 10.. Report of the Inspector of Insurance and Registrar of Friendly Societies for the year 1901. Presented to the Legislature, 1st April, 1901. *Printed.*

No. 11.. Report on the Financial Statements made by Loan Corporations for the year 1900. Presented to the Legislature, 1st April, 1901. *Printed.*

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No. 13.. Reports of the University of Toronto for 1900-1901. Presented to the Legislature, 22nd March, 1901. *Printed.*

No. 14.. Report of the Ontario Agricultural College and Experimental Farm, for the year 1900. Presented to the Legislature, 26th March, 1901. *Printed.*

No. 15. Report of the Agricultural and Experimental Union of Ontario, for the year 1900. Presented to the Legislature, 6th March, 1901. *Printed*

No. 16.. Report of the Fruit Growers' Association of Ontario, for the year 1900 Presented to the Legislature, 26th March, 1901. *Printed.*

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No. 18.. Report of the Inspector of Fumigation Appliances in Ontario, for the year 1900. Presented to the Legislature, 4th March, 1901. *Printed.*

No 19.. Report of the Entomological Society for the year 1900. Presented to the Legislature, 22nd February, 1901. *Printed.*

No 20.. Report of the Bee-keepers' Association for the year 1900. Presented to the Legislature, 26th March. 1901. *Printed.*

No. 21.. Report of the Poultry Associations of the Province, for the year 1900. Presented to the Legislature, 26th March, 1901. *Printed.*

No. 22.. Report of the Dairymen's Associations of Eastern and Western Ontario, for the year 1900. Presented to the Legislature, 26th March, 1901. *Printed.*

No. 23.. Report of the Live Stock Associations of the Province, for the year 1900. Presented to the Legislature, 26th March, 1901. *Printed*

No. 24.. Report of the Registrar of Live Stock in the Province, for the year 1900. Presented to the Legislature, 26th March, 1901. *Printed.*

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No. 27.. Report of the Provincial Instructor in Roadmaking in Ontario, for the year 1900. Presented to the Legislature, 28th March, 1901. *Printed.*

No 28.. Report of the Ontario Game and Fish Commissioners for the year 1900. Presented to the Legislature, 29th March, 1901 *Printed.*

No. 29.. Report of the Department of Colonization and Immigration for the year 1900. Presented to the Legislature, 1st April, 1901. *Printed.*

No. 30.. Report of the Inspector of Division Courts for the year 1900. Presented to the Legislature, 15th February, 1901. *Printed.*

No 31.. Report of the Inspector of Legal Offices for the year 1900. Presented to the Legislature, 22nd March, 1901. *Printed.*

No. 32.. Report of the Inspector of Registry Offices for the year 1900, with statement of fees and emoluments of Registrars. Presented to the Legislature, 22nd March 901. *Printed.*

No. 33.. Report of the Provincial Board of Health for the year 1900. Presented to the Legislature, 22nd March, 1901. *Printed.*

No. 34.. Report of the Secretary and Registrar of the Province, for the year 1900 Presented to the Legislature, 22nd March, 1901. *Printed.*

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No. 35.. Report upon the Lunatic and Idiot Asylums of the Province, for the year ending 30th September, 1900. Presented to the Legislature, 13th February, 1901. *Printed.*

No. 36.. Report upon the Common Gaols, Prisons and Reformatories of the Province, for the year ending 30th September, 1900. Presented to the Legislature, 3rd April, 1901. *Printed.*

No 37.. Report upon the Hospitals and Refuges of the Province, for the year ending 30th September, 1900. Presented to the Legislature, 27th March, 1901. *Printed.*

No. 38.. Report upon the Institution for the education of the Blind, Brantford, for the year ending 30th September, 1900. Presented to the Legislature, 13th February, 1901. *Printed.*

No. 39.. Report upon the Institution for the education of the Deaf and Dumb, Belleville, for the year ending 30th September, 1900. Presented to the Legislature, 13th February, 1901. *Printed.*

No. 40.. Report upon the work under the Children's Protection Act, for the year 1900. Presented to the Legislature, 14th February, 1901. *Printed.*

No. 41.. Report upon the working of the Tavern and Shop Licenses Act, for the year 1900. Presented to the Legislature, 13th February, 1901. *Printed.*

No. 42.. Report of the Provincial Municipal Auditor for the year 1900. Presented to the Legislature, 4th March, 1901. *Printed*

No. 43.. Return from the Records of the several Elections to the Legislative Assembly in the Electoral Districts of North Renfrew, North Waterloo, and Welland, since the General Election of March 1st, 1898, shewing:—(1) The number of Votes polled for each Candidate in the Electoral District in which there was a contest. (2) The majority whereby each successful candidate was returned. (3) The total number of Votes polled in each District. (4) The number of Votes remaining unpolled. (5) The number of names on the Voters' Lists in each District. (6) The population of each District as shown by the census. Presented to the Legislature, 7th February, 1901. *Printed.*

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No 45.. Report of the Librarian upon the state of the Legislative Library. Presented to the Legislature, 6th February, 1901 *Not printed*

No. 46.. Report of the Commissioners in regard to the alleged offences and irregularities in the West Elgin Election. Presented to the Legislature, 13th February, 1901. *Printed.*

No. 47.. Report of the Bureau of Labor for the year 1900 Presented to the Legislature, 13th February, 1901. *Printed*

No. 48.. Report of the Sugar Beet Investigation. Presented to the Legislature, 28th February, 1901.

No. 49.. Report of the Inspector of the San José Scale for the year 1900 Presented to the Legislature, 2nd April, 1901. *Printed.*

No. 50.. Report of the Royal Commission on the Financial Position of the Province of Ontario. Presented to the Legislature, 21st February, 1901. *Printed.*

No. 51.. Report of the Survey and Exploration of Northern Ontario, during 1900. Presented to the Legislature, 2nd April, 1901. *Printed.*

No. 52.. Copy of Order-in-Council respecting payment to His Honour Judge Elliott, of Middlesex, of the surplus Surrogate fees of the County. Presented to the Legislature, 13th February, 1901. *Not Printed.*

No. 53.. Copy of an Agreement between the Inspector of Prisons and Public Charities and the H. A. Nelson & Sons Company, Limited relative to the manufacture of brooms at the Central Prison. Presented to the Legislature 14th February, 1901. *Not Printed.*

No 54.. Return to an Order of the House, for a Return shewing the various unexpended grants to railways; the amounts authorized to be paid in cash subsidies, if earned, and grants of lands in the Province, if earned. Presented to the Legislature, 14th February, 1901. Mr. *Hoyle*. *Not Printed.*

No. 55.. Detailed Statement of all Bond and Securities, registered in the Provincial Registrar's Office during the year 1900. Presented to the Legislature, 20th February, 1901. *Not Printed.*

No. 56.. Return to an Order of the House, for a Return of a copy of the evidence taken before the Royal Commission for the investigation of the acts of the Returning Officer, Deputy Returning Officers and Poll Clerks, at the election held in the West Riding of the County of Elgin in the month of January, 1899. Presented to the Legislature, 27th February, 1901. Mr. *Whitney*. *Not Printed*

No 57.. Statement as to distribution of the Statutes, Revised and Sessional, for the year 1900. Presented to the Legislature, 27th February, 1901. *Not Printed.*

No. 58.. Return to an Address, for copies of the Awards of the Arbitrators on the unsettled Accounts between the Dominion and the Provinces. Presented to the Legislature, 22nd March, 1901. Mr. *Matheson* *Printed.*

No. 59.. Return to an Order of the House, for a Return shewing the amount of timber and saw-logs cut by the license holders on the road allowance in the Township of Grimsthorpe during the years 1899 and 1900, together with the

names of the foreman and jobbers by whom such timber was cut and the quantity cut by each. Presented to the Legislature, 12th March, 1901. Mr. *Allen* *Not Printed.*

No. 60.. Copies of Orders-in-Council, made under the authority of the Act respecting the Department of Education. Presented to the Legislature, 13th March, 1901. *Not Printed.*

No 61.. Return to an order of the House, for a Return of copies of applications for admission into Normal Schools for the year 1901; the date of such applications; the number and names of those admitted; the date on which said applicants were notified of their admission; the number and names of those rejected; the date on which said applicants were notified of their rejection; the cause of their rejection; the numbers of teachers in training, the Normal Schools can accommodate, and the number of teachers in training now actually in attendance at such Normal Schools. Presented to the Legislature, 13th March, 1901. Mr. *Barr.* *Not Printed.*

No. 62.. Return to an Order of the House, for a Return shewing the location of any Cold Storage Station, or Stations, established under Act of last Session, with amounts paid. Presented to the Legislature, 13th March, 1901. Mr. *McLaughlin.* *Not Printed.*

No. 63.. Return to an order of the House, for a Return of copies of correspondence between any member of the Government or the Provincial Board of Health, or any official thereof, and the Mayor of the City of Windsor, or any other person or persons, in reference to an outbreak of smallpox in the County of Essex in March, 1899. Presented to the Legislature, 15th March, 1901. Mr. *Lucas.* *Not Printed.*

No. 64.. Return to an Order of the House, for a Return of copies of all correspondence between the Government of the Province of Ontario, or any member thereof, and the Imperial Government, or any official thereof, or His Excellency the Governor-General of Canada, with relation to the establishment of a Remount Station in Canada. Presented to the Legislature, 15th March, 1901. Mr. *Whitney* *Not Printed.*

No. 65.. Return to an Order of the House, for a Return of copies of all correspondence between the Government, or any member thereof, or any person or persons, or corporations with reference to the employment of Aliens on the construction work of any railway in the Province. Also, for a copy of any report made to the Government, or any member thereof, by any person with reference to such employment. Presented to the Legislature, 19th March, 1901. Mr. *Wardell.* *Not Printed.*

No. 66.. Copy of an Order in Council, amending the rules and regulations for the control and working of the Provincial Diamond Drills. Presented to the Legislature, 21st March, 1901. *Not printed.*

No. 67.. Return to an Order of the House, for a Return of copies of all correspondence, or other documents, concerning the granting, or refusal to grant, a liquor license to either the British Hotel, or the Central Hotel, in the Town of Durham, during the years 1898 or 1899. Presented to the Legislature, 21st March, 1901. Mr. *Lucas.* *Not printed.*

No. 68.. Report of the Department of Fisheries, of Ontario, for the year 1900. Presented to the Legislature, 3rd April, 1901. *Printed.*

No 69. Return to an Order of the House, for a Return shewing the names and addresses of all parties to whom permits were granted during the year 1900, for the destruction of insectivorous birds, or birds' eggs, and shewing as well, upon whose recommendation such permits were granted. Presented to the Legislature, 22nd March, 1901. Mr. *Monteith. Not printed.*

No. 70. Report of District and Township, Agricultural and Horticultural Societies, for the year 1899. Presented to the Legislature, 25th March, 1901. *Not printed.*

No 71. * Land Settlement in New Ontario, being a short account of advantages offered land seekers. Presented to the Legislature, 27th March, 1901. *Printed for distribution only.*

No. 72. * Statement concerning the extent, resources, climate and industrial development of the Province. Presented to the Legislature, 27th March, 1901. *Printed for distribution only.*

No. 73. Return to an Order of the House, for a Return, shewing the names and addresses of all parties tendering—where tenders were called for—for coal, wood and fresh meats, or any of them, for the uses of the Asylum at Brockville, during the year 1900, with copies of the tenders put in by each party tendering; copy of the specifications issued in each case, where tenders were called for, with the name and address of the successful tenderer in each case, together with the kind, quality and quantity of coal, wood or fresh meat, or any of them tendered for. Also the kind, quality and quantity of either of those items for which tenders were accepted in each case and the prices paid. Also the names and addresses of all parties supplying coal, wood or fresh meats, or either of them, without tender, during the above date at the Brockville Asylum, the kind and quantity by each person supplied and the price paid. Presented to the Legislature, 27th March, 1901. Mr. *Joynt. Not printed.*

No. 74. Return to an Order of the House, for a Return, of copies of all correspondence between the Government, or any member or official thereof, and the Inspector of Public Schools in the County of Dufferin, or any other party or parties, respecting the refusal to pay over the Government grant to School Section No 7, of the Township of Melancthon, during the last five years. Presented to the Legislature, 2nd April, 1901. Mr. *Barr. Not printed.*

No. 75. Return to an Order of the House, for a Return shewing: 1. The amount of the bonuses of subsidies voted to Railways by this Legislature, each year, during 1898, 1899 and 1900. 2. The names of each railway and the amount voted to each, during the same period. 3. The amount paid to each railway during each of such years and the condition, or conditions, upon which such payments were made Presented to the Legislature, 4th April, 1901. Mr. *Joynt. Not printed.*

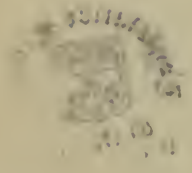
No. 76. Agreement between His Majesty, represented by the Commissioner of Crown Lands, and the Keewatin Power Company, Limited. Presented to the Legislature, 9th April, 1901. *Printed.*

No 77. Return to an Order of the House, for a Return, of copies of all correspondence between the Government, or any member thereof, and the Crown Attorney o' Halton, or any other person or persons, with reference to the collection of the fines imposed upon those found guilty of bribery in the last local election in Halton. Presented to the Legislature, 11th April, 1901. Mr. *Wardell Not printed*

* Printed for Distribution only.

No. 78.. Return to an Order of the House, for a Return shewing: 1. How much money has been spent on Colonization Roads in the last seven years. 2. How many miles have been built during the same period. 3. What was the cost *per* mile, how much paid for labour; how much to overseers and commissioners, and to whom. 4. What amount was paid for surveys during the same period. Presented to the Legislature, 11th April, 1901. Mr. *Brower*. *Printed*.

No. 79.. Return to an Order of the House, for Return of copies of all correspondence and papers between the Government, or any member thereof, or any Inspector of Factories, or Bureau of Labour, and any person or persons, firm or corporation, having reference to the enforcement, or non-enforcement, or the compliance or non-compliance, with the provisions and requirements of the Ontario Factories Act, during the years 1898, 1899 and 1900. Presented to the Legislature, 12th April, 1901. Mr. *Carscallen* *Not printed.*



REPORT

OF THE

ONTARIO ASSESSMENT COMMISSION

BEING THE

INTERIM OR FIRST REPORT AND RECORD OF PROCEEDINGS

OF THE

COMMISSIONERS APPOINTED BY COMMISSION OF THE LIEUTENANT-GOVERNOR OF ONTARIO, DATED 10TH SEPTEMBER, 1900, TO INQUIRE INTO AND REPORT UPON QUESTIONS OF MUNICIPAL ASSESSMENT AND TAXATION

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Toronto, 31st January, 1901.

To the Honourable Sir Oliver Mowat, G.C.M.G.,
Lieutenant-Governor of the Province of Ontario.

May it please your Honour,—

I beg to submit the accompanying interim Report of the Commissioners appointed to inquire into and report upon questions of Municipal Assessment and Taxation in the Province.

I have the honour to be

Your most obedient servant,

James Maclennan,
Chairman.

REPORT.

Your Honour's Commission appointing us, dated the 10th day of September, 1900, directed us to inquire into and report upon,

(1) The operation of the laws now in force relating to the assessment of different classes of property, for the purpose of municipal taxation, in the Province of Ontario, and the collection of taxes, and the sale of lands for arrears thereof, and the duties of the municipal officers in relation thereto;

(2) The assessment of lands and the improvements thereon respectively;

(3) The most equitable method of assessing stocks and other property of mercantile firms and corporations;

(4) The most equitable mode of assessing Companies operating public franchises under Statutes in force in the Province of Ontario, or under agreements with municipal corporations, such as Companies for the supplying of water, light, heat and power to municipalities and the inhabitants thereof, telegraph and telephone Companies and Companies operating railways, street railways and electric railways;

(5) Improvements in the assessment laws of Ontario suggested by legislation of recent years in other countries;

(6) The statutory exemptions from taxation now in force, and as to what, if any, changes should be made therein;

(7) The re-arrangement, revision, amendment and consolidation of the provisions of the Assessment Act and the amendments thereto;

And to prepare such amendments as might appear to be advisable; and to inquire, and hear, and consider, and report upon any other matters connected with the assessment and taxation of property which might be brought to our attention, or which might appear to us to be proper subjects for consideration.

We appointed various days in the months of November and December last for the holding of public sittings for the consideration of various branches of the subject of assessment and taxation, of which public notice was given by advertisement, inviting all persons interested in that subject, or in any other matter relating to municipal taxation to appear before us and to present their views, either in person, or by counsel or agent, and either orally or by written statement, or by both.

A large number of persons from various classes of the community and representing many different views and interests, availed themselves of this invitation, and gave us much valuable information and assistance.

A stenographer was employed to report the discussions which took place before us at the above public sittings, and we append to this report a transcript of his notes.

In Appendices "A" and "B" will be found copies of statements and communications which have been received by us during the course of the inquiry.

Many anomalies and inequalities in taxation and defects in the existing law have been pointed out to us, to which we are now giving consideration, but the questions raised are so numerous and complex, and the whole subject of inquiry so large, that we have found it impossible to report fully at present.

One matter, however, relating to the assessment of land, has appeared to us to be so important as to require immediate action by the Legislature. It arises out of the decision of the Court of Appeal in *re* The Bell Telephone Company and the City of Hamilton, 25 Ont. App. 351, in which it was held that in assessing the poles, wires, etc., of a telephone company, such property cannot under Section 28 (1) of The Assessment Act be valued justly, according to its actual value, having regard to the purpose for which it is used, but must be valued as materials, which, if taken in payment of a just debt from a solvent debtor, would have to be removed and taken away by the creditor.

Section 28 (1) has been in force since the year 1853 without particular attention having been called to its true meaning, and, when originally passed, the Legislature probably had

not in view any property of the description in question. Assessments of such property had, prior to the above mentioned decision, been generally made at the cost of reproducing and replacing the property *in situ*, and we are of opinion that the latter principle of valuation is the fairer. Eminent counsel, who represented before us some of the larger of the Companies operating public franchises, was constrained to make the admission that "the 'scrap iron case', as it has been generally termed, is one which shews that the law is not in a satisfactory state."

Since that decision, the principle it established has been successfully invoked by other companies, who are relieved of a large share of taxation which they should justly bear, and had previously borne without complaint, but which has now been cast upon other ratepayers of the municipalities concerned.

Being of opinion that the injustice should be removed without delay, we have drafted, and append to this report, a Bill to effect that object, the passing of which we respectfully recommend as a remedy, until we can complete a report upon all the matters submitted to us.

All of which is respectfully submitted.

30th January, 1901.

James Maclennan.
Hugh MacMahon.
T. H. Macpherson.
K. W. McKay.
A. Pratt
D. R. Wilkie.
M. J. Butler.

BILL.

An Act to amend The Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

R. S. O. c. 224, s. 28 (1), amended.

1. Subsection 1 of section 28 of *The Assessment Act* is hereby repealed and the following subsections are substituted therefor:

Valuation of real and personal property.

28.—(1) Except in the case of mineral lands hereinafter provided for, real and personal property shall be assessed at their actual value.

Separate valuation of land and buildings, etc., thereon.

(2) In assessing land having any buildings thereon the value of the land and buildings shall be ascertained separately, and shall be set down separately in column 12 of the assessment roll, and the assessment shall be the sum of such values. The value of land apart from the buildings thereon, but including all other improvements, shall be its actual value, regard being had to its condition, situation and other advantages, and the use to which it is or may be applied; and the value of the buildings shall be their actual value, regard being had to the state of repair and the cost of reproduction thereof, and any other circumstances affecting their value.

Matters to be considered in valuing land.

Valuation of structures, etc., upon, in, over or under highways, etc.,

(3) The assessor or assessors of a municipal corporation shall assess all buildings, structures, substructures, areas, superstructures, fixtures and other things existing, erected, or placed upon, in, over, under, or affixed to any highway, road, street, lane, or public place or water within the municipality, and shall value the same, for the purpose of such assessment, as real estate of the person owning, operating or using the same, at the actual value thereof, regard being had to the cost of reproducing and replacing the same for the purpose for which the same are owned, operated, or used, and to their state of repair.

and other lands.

(4) Such assessment and valuation shall also extend to and include all poles, wires, attachments and instruments being the property of or operated or used by any such person, planted in, extending over or under or affixed to or within any land or building belonging to any other person.

Assessment where the highway is between two municipalities.

(5) Where any property mentioned in subsection 3 or 4 is in or on a road which lies wholly or partly between two municipalities, although such road may deviate so as in some places to be wholly or partly within either of them, the assessors of the respective municipalities shall make a joint assessment thereof, and one-half of the amount of such assessment shall be inserted in the assessment roll of each municipality.

Arbitration in case of disagreement of assessors.

(6) In the event of disagreement between the assessors the assessment shall be determined by an arbitrator to be appointed by the Judge of the County Court of the County within which either of the said municipalities lies; and the expense of any such arbitration shall be paid jointly by the respective municipalities.

R. S. O. c. 224, s. 28 (2), amended.

2. Subsection 2 of section 28 of *The Assessment Act* is hereby amended by striking out the figure "(2)" at the beginning thereof and substituting therefor the figure "(7)".

R. S. O. c. 224, new sections 28a and 28b.

3 The following sections are hereby inserted in *The Assessment Act* as sections 28a and 28b.

Statement to be furnished to assessor, etc.

28a.—(1) Every person assessable in respect of property referred to in subsections 3 and 4 of section 28 of this Act shall, if requested in writing by the assessor or Assessment Commissioner, deliver to him or to the Clerk of the municipality, within fifteen days after such request, a statement in writing specifying in such detail as the assessor or Assessment Commissioner may have required, the property aforesaid and the value thereof, having regard to the cost of reproducing and replacing the same, for the purpose for which it is owned, operated or used, and to its repair.

Verification thereof.

(2) The said statement shall be signed by or on behalf of such person, and shall be verified by an oath or statutory declaration in writing attached thereto.

Penalty for failure to deliver statement,

(3) Any person who, having been duly required so to do, refuses or neglects to deliver the said statement, shall incur a penalty of $100, and an additional penalty of $10 for each day default continues.

or for false statement therein.

(4) Any person knowingly stating anything falsely in any such statement shall incur a penalty of $200.

Recovery of penalties

(5) The penalties imposed by this section may be recovered on summary conviction before any Justice of the Peace having jurisdiction within the municipality, and shall be paid over to the municipality.

Assessor not bound by the statement.

28b. The assessor shall not be bound by any such statement, but he shall use all other available means to enable him to assess such property at its actual value as provided by subsections 3 and 4 of section 28 of this Act; and the council of the municipality may, by resolution, authorize the assessor to employ expert or other assistance for the purpose of making any such assessment.

R. S. O. c. 224, Sched. E. amended.

4. Schedule E to *The Assessment Act* is hereby amended by striking out the last two lines of the paragraph numbered 1 of the form of oath given in said Schedule and substituting therefor the words "at its actual value as prescribed by law."

Act not to apply to steam railways.

5. This Act shall not apply to steam railways.

PROCEEDINGS

OF

THE ONTARIO ASSESSMENT COMMISSION.

FIRST MEETING, 29TH SEPT., 1900.

The Commissioners met this day to organize. The following Commissioners were present: Hon. Mr. Justice Maclennan (Chairman), Hon. Mr. Justice MacMahon, and Messrs. Kenneth W. MacKay, Thomas Henry McPherson, Abraham Pratt and Matthew W. Butler.

It was resolved that the meetings of the Commission should be held in the Reception Room in the Parliament Buildings, Queen's Park, Toronto; and

That the first meeting of the Commission for hearing of evidence should be held on Tuesday, 30th Oct., 1900, at 10.30 a.m., and that the Commission should thereafter sit daily at the same hour until the conclusion of the inquiry.

An advertisement was settled to be published in the public press as the Government might see fit, and to be mailed to Municipal Clerks and Post-masters in the Province, giving notice of the subjects of inquiry and dates when public discussion of the different subjects might be heard before the Commission.

The dates so appointed were subsequently altered, and public notice of the alterations, and of the course of proceedings at such public meetings of the Commissioners was given as follows:—

POSTPONEMENT.

Public notice is hereby given that the Commissioners, appointed by His Honour the Lieutenant-Governor of Ontario in Council, by commission bearing date the 10th day of September, A.D. 1900, to inquire and report upon the operation and amendment of the laws now in force relating to the assessment of property for the purpose of municipal taxation in the Province of Ontario, will meet for the purpose of proceeding with the said inquiry in the Reception Room at the Parliament Buildings, Queen's Park, in the City of Toronto, on Tuesday, the 13th day of November next, (instead of on the date formerly advertised) at the hour of 10.30 o'clock in the forenoon, and so on from day to day at 10.30 o'clock in the forenoon until the conclusion of the inquiry.

The subjects of inquiry will be taken up and parties will be heard thereon in the following order and at the following times:

(1) The assessment of land and the improvements thereon respectively, on Tuesday, the 13th day of November.

(2) The most equitable method of assessing the stock in trade and other property of merchants, mercantile firms and mercantile corporations, on Thursday, November 15th.

(3) The most equitable mode of assessing companies operating public franchises under Provincial Statutes, or under agreements with Municipal Corporations, such as companies for supplying water, light, heat or power to municipalities and the inhabitants thereof, telegraph and telephone companies, and companies operating railways, street railways or electric railways, on Monday, November 19th.

(4) Exemptions from taxation, on Thursday, November 22nd.

(5) The assessment of personal property, including income, on Friday, November 23rd.

(6) The powers and duties of municipal officers in making assessments and in the collection of taxes, including the levy thereof by sale of goods and lands, on Monday, November 26th.

(7) Local improvements and any other subject relating to municipal taxation which any person may desire the commission to consider, on Tuesday, November 27th.

The proceedings of the Commission will be public, and all persons interested in any of the foregoing subjects or in any other matter relating to municipal taxation, are invited to appear before the Commissioners.

Parties may appear in person or by counsel or agent, and may present their views either orally or by written statement, or both.

It is recommended that persons or classes of persons desiring to present the same or similar views or suggestions to the commission will, as far as possible, select two or more of their number to do so on their behalf.

THOMAS LANGTON,
Secretary Ontario Assessment Commission.

Wednesday, October 17th, 1900.

PUBLIC DISCUSSION

BEFORE

THE ASSESSMENT COMMISSION.

FIRST DAY.

Reception Room, Parliament Buildings, Tuesday, November 13th, 1900.

The Commission met at 10.30 a.m. Present, the following: The Hon. Mr. Justice Maclennan (Chairman), Hon. Mr. Justice MacMahon, Mr. Kenneth W. MacKay, Mr. Daniel Robert Wilkie, Mr. Thomas Henry MacPherson, Mr. Abraham Pratt.

The CHAIRMAN: I have a letter from Mr. Butler, one of our colleagues, saying he will not be able to be present to-day, as he had occasion to go to Prince Edward Island on business and has not been able to return, so that all the Commissioners are present now whom we may expect to be present to day, and there is no reason why we should not, therefore, proceed to business. The subject which is fixed for to-day is the assessment of land, and the improvements therein respectively; and the Commission is now prepared to hear any gentlemen who are present who have any suggestions to make to the Commission upon that subject.

Mr. NICOL KINGSMILL, Q.C.: Mr. Chairman, there are a number of corporations and companies that are interested in the questions that are to come before this Commission, and they agreed together that they should be represented by counsel. The counsel that was selected for that purpose was Mr. Christopher Robinson, assisted by Mr. Hellmuth, Mr. MacMurchy and Mr. Lynch-Staunton, of Hamilton. Mr. Robinson is not able to be here to-day owing to the unfortunate death of his sister, and so I just came here to make that statement of fact, and at the same time to say in regard to the first question that is on the programme, that of course those companies would be to some extent interested in reference to the assessment of land, and I would suggest that perhaps the evidence had better be heard as affecting those companies in regard to the assessment of land on the day on which the third question is brought before the Commission. That would probably be more convenient.

The CHAIRMAN: Questions relating to companies?

Mr. KINGSMILL: The companies represented are the Canadian Pacific Railway, the Canada Southern, Toronto, Hamilton and Buffalo, and some smaller railways, the Consumers' Gas Co., the Toronto and London Street Railways, Great North-Western Telegraph Co., Bell Telephone Co, Toronto Electric Light Co., and some other small companies.

The CHAIRMAN: We must endeavor to go on with the first subject to-day as far as we can.

Mr. JUSTICE MACMAHON: The subject is a very wide one outside of those who are asking for postponement, and whose evidence would be in regard to very special matters.

The CHAIRMAN: Your proposal, Mr. Kingsmill, is that what these companies may have to say to us should stand over until the third question comes up, is it?

Mr. KINGSMILL: Yes. It is so mixed up with the general subject, particularly in the case of railways, the question of their real estate is so mixed up with the general subject that I think it would be more convenient if they were heard together.

The CHAIRMAN: There is a difficulty about that, because what the companies may have to lay before us ought to be laid before us at a time when people of other views would have an opportunity of hearing and answering them.

Mr. KINGSMILL: I do not think that would be a difficult condition; if they had the views of these other people represented, I see no absolute necessity for their being represented the same day.

The CHAIRMAN: No; but those who would desire to present the opposite view ought to be able to be present to hear those views and answer them.

Mr. KINGSMILL: I fancy that those people would be probably those who would be interested in having the taxation made as large as possible. I fancy they will be represented always here—I mean those representing the municipalities.

Mr. JUSTICE MACMAHON: I suppose the general question might be presented first, then the special aspect by these corporations, and then whatever would come from the other side would be in reply, in opposition of the views expressed by counsel for these various corporations. I do not suppose there is any other way, because the subject is a very wide one independent of the special class you are representing.

Mr. KINGSMILL: I am not one of the Counsel for the corporations; I believe their opinion is that it would be more convenient if when they are representing their views about taxation of their franchise and property and so on, that the question of Real Estate should be taken up. That would be rather a special line as regards the property of corporations, and I think should not interfere with the Commission going into the general question to-day.

Mr. Justice MACMAHON: Oh no I suppose not.

Mr. KINGSMILL: I asked that the corporation might be heard about that subject when the other matter comes up instead of being here now. They are not prepared to go into the matter to-day.

Mr. Justice MACMAHON: I suppose the question of the land owned by the corporations is so intimately associated with the other matters in which they are interested that it would be somewhat difficult to sever them.

The CHAIRMAN: Perhaps you would undertake, Mr. Kingsmill, if we do what you suggest to put an advertisement of some kind indicating that that subject will be dealt with at a particular time.

Mr. KINGSMILL: Certainly.

The CHAIRMAN: It would seem that that would get over the difficulty that has presented itself to my mind, but I do not think we should discuss any subject here without everybody who is interested in that particular subject having an opportunity of knowing that it was to be discussed and heard.

Mr, KINGSMILL: That is quite right, I will make that advertisement.

The CHAIRMAN: Then that is understood, Mr. Kingsmill, then we are prepared to hear anybody else on this subject.

Mr. F. MACKELCAN, Q. C.: I appear here representing the Ontario Municipal Association, who have had several meetings and have discussed these subjects very fully and have embodied their views in a series of resolutions, and I desire to present those views from time to time in the course of investigation as embodying what representatives of the various towns and cities have agreed upon as their views of proposed amendments and changes in the Assessment Act.

The CHAIRMAN: What is this Association?

Mr. MACKELCAN: It is an association composed of the representatives of all the leading cities and towns of Ontario. The mayors of the cities or their representatives are members of the Association. They have met once in Hamilton, once in Toronto, and once in London. They meet annually or oftener as occasion requires.

The CHAIRMAN: They are associated for what purpose?

Mr. MACKELCAN: For the purpose of considering and advising upon the provisions of the Municipal and Assessment Acts as the united wisdom of the representatives of all these different municipalities may consider desirable in the public interest.

The CHAIRMAN: Their object is the improvement of municipal law?

Mr. MacKelcan : Yes, and the members of it are mostly men of experience, not only the mayors of the different cities for the time being, but the permanent officers such as the Assessment Commissioners, Clerks, and sometimes the Treasurers of the Municipalities who have had some of them, almost life long experience on this subject and are able to bring to bear upon them the benefit of that knowledge derived from constant dealing with these matters.

The Chairman : Then you have something to propose with reference to the first subject ?

Mr. MacKelcan : Yes, sir, but gentlemen are here, I understand, representing the Single Tax, and those representing the present system of taxation would be very glad to hear what they have to say before we state our views to the Court. They desire to speak and we would be very glad to hear them.

The Chairman : Very well, who are the gentlemen ?

Mr. MacKelcan : Mr. Thompson.

Mr. Alan C. Thompson : Mr. Douglas has special information and he will be here in a few minutes.

Chairman : Mr. Douglas now desires to address the Commission. We shall be glad to hear him.

W. A. Douglass, B. A. : Mr. President, and gentlemen of the Commission, what I want to say this morning I was anxious to illustrate by means of some diagrams. The caretaker promised to have an easel for me this morning, but unfortunately he has not come, and if he does not come, I may be a little embarrassed to make myself plain, because it is about as impossible as to teach Geometry without having diagrams. The first point I want to deal with in this paper, which I drew up so that we could follow consecutively so, was to show the discrimination of our present method of taxation. Two men take separate lots. The one converts that wilderness into a farm or into a garden ; the other man holds his lot on speculation. At first the assessment is equal—a single tax on land value ; but as soon as the farmer clears his farm he finds that he has to pay an increased taxation. He then puts up a fence—another tax. He then erects himself a little home—another tax. He puts up a barn to save his crop—another tax. He takes and drains that piece of swamp—another tax. He plants an orchard—an additional tax. He digs a well—another tax. He buys some implements—the law says he must again have an increase in his taxation. He tears down the shanty that he first built and he puts up something that he would call a home—and then the law says that his taxation is to be increased again. He tears down the old snake fence in front and puts up a beautiful picket fence, he puts a line there, he plants shade trees, he adds to the beauty of the country—and the law says he must be taxed again. All this time the speculator escapes with the one tax ; but on the man who improves the country we put the multiplicity of taxation. So that it is not at all uncommon to see one man retarding the growth of the country and the other man advancing the growth of the country and adding to its prosperity, and for every improvement that the settler makes his tax is increased. So that the present law acts in this way, that the better the man does for the country the worse the country does for him. Now we find the same discrimination in the cities. Suppose I come to this city with $50,000 and another man comes along with $50,000. He asks me what I am going to do with my means ; I ask him what he is going to do. "Well," he says, "I am going to get a piece of land, on that I will erect some kind of industry ; I will either build houses that people may have habitations or I will put up a factory in order that goods may be produced that we may add to the prosperity of the country." I tell him that I will not do anything of the kind ; I will secure some land on a location that I think is well situated, and I will wait till he and others and perhaps hundreds and thousands of others build up that little place until it becomes a great city ; and without making the first improvement I may grow into an immense fortune, while the man who makes the improvement, who builds up the commerce, and employs labour, who uses his utilities as he should use them for the prosperity of humanity, for every improvement that he makes and for every pound of goods manufactured we increase his taxation. So that whether it be on the farm or whether it be in the city, we have that discrimination against the man who is industrious and productive, the man who uses his best brain and his best brawn for the welfare of humanity, and we tax him as though he were an enemy of humanity ; while the man who produces nothing but stands in the way of pro-

gress of humanity whom we favor by keeping his taxation low all the time. So that there we have that extraordinary discrimination, that whenever a man goes to make an improvement, then we send the assessor to increase his taxation ; but let a man stand in the way of the progress of humanity—as did the Canada Company a great many years,—and by our system of assessment we give to those parties the greatest encouragement we can. The man who converts a desert into a garden, who makes the country bloom with fertility who employs labour and who spends his energies, his muscle and brain to bring forth prosperity, against that man the taxes are turned as though he were an evil to be suppressed, while the man who turns the garden into a desert, who brings forth no crop, who employs no industry, who uses land for extortion that he may secure a crop without raising a crop, that he may gain product without producing, our taxation is all in his favour.

Another factor I wish to call attention to is the manner in which we assess for public improvements. A few years ago we built in this city a bridge across the Don, bringing a man east of the city easy access into the city. To the west we built subways under the railways so that we brought Parkdale into easy access. Bridges were built across the ravines so that that portion of the city was brought into easy access. These great improvements added vastly to the taxation of the city, so that on the citizens in general it meant a burden of taxation ; but we all know the fortunes that were made in the speculations in the east and the speculations in Rosedale and the speculations in Parkdale. One man I heard of made $80,000 there in one year ; and we know the speculative boom it gave rise to, which led to the awful disaster thereafter in the city. So that to make these lands accessible is a burden to the city in general, but it lifts other men away into great fortunes, so that the burden of one man becomes the fortune of another man ; and in the large cities we see that same discrimination ; we see that same defective taxation. When the settlers came first to this city there was no such thing as ground rent, but with every accretion to the population the ground rent has increased until to-day the ground rent in the centre of this city ranges from a dollar to two dollars or thereabouts per square foot, equivalent to 50 or 100 thousand dollars per acre per annum. Now we put two things parallel ; every year that the population has been increased the taxation bill has been larger ; every year the city has grown, the rent has been larger ; therefore the increase of the city has had to bear two burdens at the same time—one to maintain government, another to maintain the ground lord. So that here we have the present method of taxation, instead of being equitably distributed so as to fall on the shoulders of every man, it crushes one portion of society down beneath the double burden and it lifts another portion to fortune continuing to the end of all time if our taxation is arranged as it is at present. I think if we investigate the cause for the present method of taxation, it will arise very largely from this idea : that in this world there is only one value ; that the values are all homogeneous—no difference whatever between them ; and I scarcely wonder at that when I look over all the text books on economics nearly every one without exception teaching our boys that values are all alike, so that in every legislature, in every municipality we treat all values as if they were of exactly the same character. Now let us trace the growth of any city until we see the difference between two different things. When the first family goes into a city they build one house. For ease of calculation we will say it has a value of $1,000. Two families build two houses worth $2,000 ; 100 families 100 houses worth $100,000 ; and so on until we have the value of the dwellings in this city about 50 or 60 million dollars. One house $1,000, 2 houses, $2,000—the increased value there means that we have more houses ; and the fact that we have an assessment of houses at the present time upwards of $50,000,000 in this city is an indication that we have far more houses than they have in Mimico, more than they have in Hamilton, or more than they have in any smaller town. So increased assessment means increased abundance of the products of industry. Parallel with that there is another movement going on in society all the time. I suppose there is scarcely a labourer ever goes to do a job in the worldbut his brain begins to wonder, "How can I do that more easily ?" And it is that ambition in the heart of man which has lifted humanity from the condition of barbarism until we see the triumphs of science of the present day—"How can I do that work faster and easier ?" From that ambition we have the steam engine, we have our factories, we have the marvellous production of to-day ; so that when they go to work to produce they invariably aim at two things, How can we make them more abundant ? and

How can we make them cheaper and cheaper? If time permitted I could give you a remarkable example of how these principles work, but the general statement will be unquestioned because we have simply to open our eyes and see it. Therefore if we watch labour when producing, we find it always actuated by these two motives—abundance and cheapness. Now suppose I were to draw a map of the city of Toronto of the area we have at present, and we imagine the first settler landing at the bay there, there was all the land any man wanted. Then the population increased a hundred times there was a hundredth part less. If we go to the most dense part of the population we find a thousand people crowded on to one acre. Now when we look at the production of houses, of furniture, of railroads, we find that it is always multiplication—more and more abundance. When we come to land we find it is always division and subdivision and further subdivision. By the very necessity of nature we must use less and less and less land. That is the one thing we have to economize; but as land is growing less and less and less, its value is advancing to higher and higher figures until they become sometimes marvellous. In this city the highest assessed value is $3,000 per foot frontage, equivalent to somewhere between one million and a million and a half dollars per acre. The highest rental I hear demanded in this city was equivalent to $96,000 per acre per annum, or in round numbers $100,000 per acre per annum. So that here we have a movement in the growth of the city, so far as the land is concerned, which is continually a movement to greater and greater and greater scarcity and greater and greater dearness. So that in society we find these two movements always present at the same time in every city—that labour makes abundant goods, more abundant and more cheap; while population inevitably makes land more dear and more scarce. Here is a movement to greater abundance greater cheapness; on the other hand to greater scarceness and greater dearness. The one movement is a movement all the time to greater and greater riches—riches in goods; the other movement is a movement all the time to greater and greater poverty in the land. Now that is one difference. We can see at once that that difference is not a difference in degree; it is just the same difference that we have in multiplication and division, between asset and liability, between debit and credit. But more important difference yet, the one that I would more particularly impress, would be the source of there two values. Suppose I ask the value of this house. A few years ago it was stone in the quarry, it was lumber in the woods, and under those circumstances the value might be put at perhaps two or three hundred dollars.

CHAIRMAN: I think, Mr. Douglas, you are stating a great many varied general propositions to us that are quite unnecessary to be stated to us. We apprehend the greatest part of what you have said now.

Mr. DOUGLASS: Do you wish me to condense my remarks?

THE CHAIRMAN: Yes, I do; our time is limited and we have a very large field to go over, a great many gentlemen to hear, and I hope you will have some consideration for us. You may take it for granted that we apprehend those general principles that you have stated. I do not refer to your opening remarks, which were quite pertinent and proper, but you are laying a very broad foundation with matters with which we are all familiar.

Mr. DOUGLASS: The fact now to which I want to call your attention, and which I think is essential to this discussion, is this fact: that when we look at the buildings, the goods, the machinery, the railroads, and ask, Whence the value of those goods? We know that they came only by the hand of industry and by the brain of skill. But if I ask, Whence came the value of the land in the centre of this city, the value of the land in Chicago or New York? Why is it that New York has a higher value than Chicago, Chicago than Toronto, Toronto than Hamilton, Hamilton than Mimico? There we come to a very great and important truth. We know very well that the value of the land in those locations depends, not upon the knowledge and skill or the thrift or the ability of the owner of those lands, but upon the presence of the community. Now, I emphasize that one fact. The queries at once indicate the essential difference between the source of the value of labour products and the value of the land. The first is due to individual energy, the second is due to communal organization. When the fire swept away the buildings of Chicago, it annihilated the value of the products of industry, but it still left unscathed the value of the land. If, therefore, we raise the question as to the proper

ownership of these values, can there be any doubt as to the answer? Can there be any question as to the ownership of the crop? Should it not by every consideration of justice belong to the men who raise it? And when population increases in any locality, and thus gives a value to the land, to whom should belong that value? Does it not, by every consideration of right, belong to the public treasury for community purposes?

If we insist in ignoring the differences between the value of goods and the value of the land, then we inevitably split society in twain. On one part we place all the burden of supporting civilization, and then allow to that part but a fragment of its advantages, while we release the other part of all burden and then give to that part the benefits to civilization to the full and overflowing. We make the reward of industry very meagre, while to those who produce nothing, we give rewards far beyond the possibility of rational enjoyment.

Mr. Douglas here illustrated by a drawing the following point:

Suppose we take a section of country commencing with the poorest land occupied and go into the centre of commerce, labour is just as badly off there as anywhere. Our present method of assessment dooms labour to this terrible condition, that the labourer in the best of civilization is no better off than he is in the lowest civilization We make this land quite barren to the man who wields the pick and shovel. Labour cannot by any productive possibility, by any amount of machinery, by any improvement in society, be any better off than he could be on the prairie. Suppose population doubles, quadruples, as it has again and again on this continent. What is the relation we establish in society? The labourer is no better off, he may be worse off. But undoubtedly in the centre of the city as society has risen there, the value of land will be doubled or trebled or quadrupled. One portion of society goes up in fortune, the other is pressed down to poverty by the obligation that labour must furnish, year after year, according to our present method, and must continue for all time. So that there is no hope for labour ever to enjoy the blessings of civilization with our present method of assessment. By the assessment of improvements and by leaving to land a margin of value sufficient to tempt people to speculate, we entice people to use land for purposes of extortion and spoliation, to derive their fellows of the reward of their industry.

We split society into toilers and non-toilers. We doubly tax industry, compelling it to bear the two burdens: 1st, the maintenance of government and 2nd, the maintenance of the ground-lord.

We waste the resources of the nation, keeping thousands of acres unused and often thousands of labourers out of employment. I have been assured that a great deal more that a half of this continent is held unused, and we know very often how difficult it is for labour to exercise their industry. We increase enormously the cost of government. I have walked sometimes up some streets in this city, and found a house here and there —sewage for hundreds where we have a dozen, all the appliances of a city. Had they been built contiguous, one tenth of the cost of government would have been sufficient.

We increase enormously the cost of government, often having to build all the appliances of sewage, sidewalks and streets where the land is not a quarter occupied.

We degrade toil, making it a token of social unworthiness.

We often lead scheming speculation to load the citizens with the expense of costly works as has been known in this city, not from public necessity, but to make their speculations a success.

We ignore honesty, we trample justice under foot, often enabling non-production to snatch a fortune and to crush the producers to misfortune.

We encourage those land speculative manias which have time and again swept across this continent like epidemics and left wrecked fortunes and financial panics in their wake.

We misdirect the energies of many of our citizens, so that instead of blessing humanity with the abundant production of their hands or the genius of their brains, they simply seek the chance to take a fortune by the spoliation and degradation of their fellows.

We reduce industry—productive, beneficient industry, that brings forth with the amplest abundance—to a life of inevitable perpetual want; for it matters not how much it may produce, the land owner will claim as his portion all in excess above the margin of a meagre living.

We beget the perpetual and standing struggle between capital and labour, the standing truce, the unstable equilibrium, that threatens to break out at any time into active

hostilities and to paralyze our industries, to beget the spirit of strife and bloodshed. We lead to a selfish grasping that is amazing to behold—men with fortunes often excessive, striving to seize opportunities to forestall labour, that they may add to their already overflowing fortunes, utterly regardless of the rights and welfare of their fellows.

We lead men often, unwittingly, to injure their fellow men, by enticing them into methods of acquiring wealth that can succeed only by the spoilation and the impoverishment of honest industry.

We lead men to fraud and perjury, so much so that the people look upon it as a matter of course. When we ask men to reveal the condition of their industry, the condition of their business, how many, even of our best men, cleave closely to the truth? The bankrupt dare not reveal his penury, the excessively wealthy often reports but a tithe of his possessions.

We give to our civilization the dangerous and destructive development of European forms, excessive wealth with idleness at one extreme, and excessive poverty within its train of vices at the other extreme, palaces revelling in wasteful excess, and huts where poverty passes its hopeless life of struggle and want.

We beget corruption and perversion of government, leading men to use the taxing power as the highwayman uses the turnpike, to burden their fellow citizens that they may acquire wealth which honestly belongs to others.

From all these considerations I would urge the abolition of taxes as quickly as possible from the products of industry and their concentration on land values only.

They may be initiated in several ways:

1st.—By giving local option to the municipalities as has been done in New Zealand and British Columbia

2nd.—By the method of Manitoba, where all farms and market gardens are assessed as though unimproved.

3rd.—By the British Columbia method, where improvements are assessed at only fifty per cent. of their value, then leaving the municipalities the option of further reduction.

4th.—By thus taking successive steps in the reduction of the taxation on improvements. finally, the whole taxes would be confined to land value.

The CHAIRMAN: I think you said there was some one else who desired to address us.

Mr. ALAN. O. THOMPSON: I would like to have heard some of the gentlemen who are opposed to the Single Tax speak before I took up your time. I have here a memorandum prepared by the Single Tax Association which I will leave with the Commissioners. (*a*) It contains a large number of extracts from the Report on Taxation by the Illinois Bureau of Statistics. The figures have all been carefully compiled from the books of the Assessment Department of Toronto. It is hardly necessary for me to go very deeply into the philosophy of the subject after Mr. Douglas' remarks, but there are one or two things I would like to lay special emphasis on. He has already pointed out to you that there are two values in the community. I would like to speak of that also but from a different point of view. There are the land values, which are created by the community, and there are labour values which are created by industry. Now, there is a fundamental difference in those values in other ways than pointed out by Mr. Douglas, and that is, that land values are permanent as long as the population remains permanent; it increases in every growing location, in every growing municipality there is an increase of land values. Not only that, but as has been observed, in the localities where the population is stationary or nearly so there has been an increase in the land value due to the increased facilities of doing business through the introduction of labour saving machinery or public facilities for the transporatation of goods and other things of that nature. Now in the case of labour values, even if they don't actually cost less than the produce, as has been the experience of the last hundred years—I mean by that the price of iron now instead of being two or three hundred dollars a ton has gone steadily down—of course it has had upward tendencies, but iron and all the other labour commodities are easier to make, and therefore cheaper—but in addition to that the moment they are created they sooner or later come back to the raw material. A house that is new to-day will in fifty or one hundred years entirely disappear. In fact, any wise builder or owner of property usually sets aside a cer-

(*a*) See Appendix A, No. 1.

tain proportion for the depreciation of property. So that while on the one hand labour values are continually disappearing, land values are permanent. Now, then, if for no other reason than that, there should be a difference between the taxation of land values and the taxation of labour values. Not only is there a difference in the permanency of the two, but there is a difference in the sources from which they arise. If the population in Toronto were double, the land values in Toronto would be doubled immediately. The value of the houses in the City of Toronto or any other community will depend entirely on the cost which it will take to replace them. There is another point which I would like to call your attention to. If you build a new railway, such as projected now to Hudson Bay, it would facilitate the introduction of building material into Toronto, and would have the effect of decreasing the value of buildings already produced, whereas it will have the effect of increasing the value of land, which is a beneficial effect, by the introduction of a new art or commerce or any other thing that will facilitate the doing of business. So that it is manifestly unfair at least to lay any tax upon the buildings or the goods in the store and the warehouse for the improvement of public facilities for doing business, because the only effect it has on those things is to decrease their value, because a thing is only worth what it can be replaced for, while it has the contrary effect of increasing the value of land where these things centre. Now there is another thing which we class as land value. I think I am within the mark in mentioning that just now, although the matter will be more fully treated later, and that is the value of a franchise. The value of a franchise in the City of Toronto like the Street Railway or the Telephone Company, or the Gas Company, is the value of the exclusive privilege of doing business in the City of Toronto, that is, using the real estate of Toronto, using the streets, which is the value of the right of way. That can only be obtained by using land. We therefore claim they should be assessed as such. We have some tables here drawn from the assessment of the City of Toronto which I should like to call attention to. (*b*) Number one is Elliott Street—a street very well built up, occupied almost entirely by mechanics. The average frontage is about eighteen feet and a depth of one hundred and six feet. The assessment per foot is fifteen dollars. The average assessment of land is about two hundred dollars and the buildings about six hundred dollars. That is to say, that the land that is used by the working classes in Toronto is cheap land, and the improvements upon it run approximately about three times the value of the land itself. When we come to buildings of a better type such as occupied by clerks and the younger professional men, we find that the land bears a larger proportion, but still is considerably less than the value of the buildings erected on it. I have taken Ontario Street from Wellesley to St. James, the east side, where the value of the land ranges from $600 to $800 for each house, and the value of the house runs about $1,000. The ratio there is about as two is to three. When we come to the better class of dwellings, such as St. George and Jarvis Street we meet with this fact, that although large and magnificent houses, full of modern improvements, the land value there is often greater than that of the house, and is frequently about the same, and sometimes less, but on the average the land value bears the relation of about four to five, the house being worth five and the land four. The cheaper classes of commercial property such as retail stores in the northern part of Yonge Street, along Queen Street, both east and west, the same holds good; the improvement value is very considerably in excess of the value of the land I have an example here, Queen Street from Sherbourne to Seaton here the land value averages about $1,600 and the value of the store about $2,600. When we come down town to such places as King Street and Yonge Streets we find the contrary effect. The land value is enormously greater than the value of the improvements on it. The Lawlor building, on the north-west corner of King and Yonge Streets—a magnificent new structure,—assessed value is $75,000 I am inclined to think that the land value is rather understated in the down town property, but the land on which this building stands is valued at $80,000. The proprietor demanded a ground rent which would bring that up to about $240,000. However as he did not get it, perhaps the Assessment Department were nearer right as to the value of the land than he was. The nearest approach to equality is the building on the corner of Temperance and Yonge Streets, occupied by a large retail store. The value of the building is put at $45,000,

(*b*) See Appendix A, No. 1.

the land at $94,000. Then it drops again to about ten per cent. of the value until we come to the corner occupied by Simpson. There, we find a building worth $150,000—a six storey building with basement; thoroughly up to date in every respect—and yet the land is $205,000, that is $50,000 more than the building. When we take Bay Street, this is a street in what you may call a transition period—from Adelaide to Queen Streets we find the land is about seven times as valuable as the buildings erected on it. The figures are $6,800, $6,900, $5,300, $5,700, until we come to the Temple building; there we have one of the finest structures in the City of Toronto, assessed for $400,000, its land is valued at $35,000. The taxes on that building alone would be something in the neighborhood of $7,000, based on one and a half per cent per annum.

The CHAIRMAN: Two or three illustrations of that kind would illustrate your argument.

Mr. THOMPSON: This is a special one I want to point out. The Act would fix about one and a half per cent. of rent on that property. Next door to that we have a twenty thousand dollars building on seventy-five thousand dollar land. What I want to point out is this: at the land that is used by the industrial classes and by the smaller storekeepers is comparatively cheap land, while their improvements are very much in excess of the value of the land, and when you come down town where the fortunes are made, where immense business is done, that portion of the city which reaps the utmost benefit from the means of doing business, we find the land value is away up in the clouds and the improvement values very little; but where a man does venture to improve and put up a building in accordance with the needs of those localities then the Assessment Department is compelled to fine them as heavily as the law allows. Now, the question of Site Value Taxation, which is the taxation we advocate, seems to me the most important thing that this Commission could go into. It has long been contended—in fact the late Premier of Ontario assured me—that there was no such thing as scientific taxation; you simply had to get what you could. Now, as a matter of fact there is a taxation which is automatically levied and collected. It is collected by the owner of the land from the user of the land, and it does not make any difference whether it is paid to the state or paid individually, that tax is going to be collected. What we say is that tax should be collected by the City for the use of the citizens when it is the citizens who produce the value that makes the collection of that tax possible.

Mr. WILKIE: Will you repeat what you said last.

Mr. THOMPSON: I said that this tax—

Mr. WILKIE: What tax?

Mr. THOMPSON: The ground rent, the annual value of the land which represents the exact value of doing business in a given locality, at a given spot—that tax will be collected—it is partially collected now by the City; they take about twenty-five per cent. of it, the balance of it goes into the hands of the private owner who has done nothing to produce that, except as a member of the community.

Mr. WILKIE: You refer to ground rent?

Mr. THOMPSON: I refer to ground rent.

Mr. WILKIE: I would like to ask Mr. Thompson if he introduced a moment or two ago the subject of a franchise tax and intimated that he looked upon street railways and other improvements as fit subjects for taxation? I could not understand it in view of his previous statement that any improvement was an advantage.

Mr. THOMPSON: Well, there is a difference.

Mr. WILKIE: Is it an essential part of your Single Tax theory?

Mr. THOMPSON: It is. We claim that the franchise is simply the value of the exclusive privilege of using land belonging to the people.

Mr. WILKIE: But it is improvement to the land, is it not?

Mr. THOMPSON: No, it is simply the bare value. For example: approximately speaking—I do not know the exact figures—the value of the street railway company's franchise and stock and everything is about nine million dollars. About four million of that represents rails, rolling stock and buildings and other improvements which we don't believe in taxing.

The CHAIRMAN: According to actual cost?

Mr. THOMPSON: Yes, it will cost that to replace them. The balance of that, five millions, is really the capitalized value of their net income after paying the interest on

their capital invested, which would represent the Cash Value of the privilege they have of the exclusive right of using the streets of Toronto for an electric railway. We claim that the use of land in any shape or form is a fit subject of taxation.

Mr. WILKIE: Is not that a new idea in connection with the Single Tax?

Mr. THOMPSON: No.

Mr. WILKIE: Has it always been?

Mr. THOMPSON: Of course that is a matter of detail. We believe in the long run that these things should be controlled by the people, but as a means to that end by levying a tax simply on the land that they use we would destroy the excessive value of a franchise; there would be no more profit in a franchise of that description than in any other legitimate business. The result would be that they would not be so anxious to have it. If you refer to "Natural Taxation" by the late Mr. Shearman, you will find that this matter is very thoroughly gone into.

Mr. Justice MACMAHON: The bare franchise is nothing without the expenditure.

Mr. MACPHERSON: They look upon the franchise as the land, practically.

Mr. WILKIE: No, it goes beyond that.

The CHAIRMAN: The expenditure is the actual capital they have put in. The test value of their undertaking is the value of their right to use the freehold land of the public; that is the argument.

Mr. WILKIE: I would like to ask Mr. Thompson another question. I think I understood him to say that the object of taxing the franchise would be to eventually compel the taking over, or rather the selling out to the public of these improvements?

Mr. THOMPSON: Well, I would not like to put it quite as strongly as that.

Mr. WILKIE: I think you did.

Mr. THOMPSON: No, that is my own personal opinion as to the better way of doing business, but in the meantime we claim that the use of land anywhere and everywhere, the use of valuable land, should be taxed, and we claim that the streets when rented by an outside corporation constitute the land value, and, therefore, properly come under the head of land values. It would certainly necessitate the taking over of those different corporations or their franchise by the city when the time appeared to be ripe to do so.

Mr. MACKELCAN: I will begin with a few observations from a practical or business standpoint by way of answering what we have just heard. Legal taxation is a means of raising under the authority of law moneys requires for local purposes, which would otherwise have to be contributed voluntarily by the members of the community who required those things for which the moneys are to be expended. One of the largest items of local expenditure consists in the paying of a large police force for the purpose of protecting the property of persons residing in the municipality, and also of public safety of the individuals themselves. Another very large item of expenditure is for fire protection, for the protection of large buildings, valuable stocks of goods, property of every description that is destructible by fire. Another large item of that expenditure is for the supplying water for the use of the inhabitants of the community, also for fire protection, for the purpose of manufacturers, and for all the conveniences of modern life. Then, we also have moneys raised for the improvement of our streets and sidewalks, for the convenience of those who drive along the streets, for the comfort and safety of those who walk on the streets. If there were no methods sanctioned by law by which contributions towards these subjects could be enforced, and you had to raise the money by voluntary subscriptions from the residents in the municipality, who would be the contributors? Would it be the men who owned vacant land, who did not need any fire protection or police protection? Or would it be the men who owned the property for the protection of which all these were necessary? If in a community we will suppose a man owned a farm of two hundred acres, and he was content to till that and did not desire any change in the land, but a railway station happened to be built in his neighborhood and the railway came there, and a town were built up, and heavy expenditures were incurred there, enterprizing people wanting to have large buildings and electric light and waterworks and all modern appliances of an up-to-date city or town, and this being in an unorganized tract where there was no means of enforcing any contribution, and they desired to raise money for these purposes, and they go about to ask for it, the men who have the buildings, the men who have the stocks of goods, the men who have the valuable property—they are the men who are doing business there who would naturally put their names down, they

would all subscribe, and the necessary funds would be raised, because it was a necessity for themselves, for their own business and their own property that protection of what they had there should be obtained. But the man with the two hundred acre farm would say, "Well I have nothing to say in this; I was farming there before you came, and I continue to do the same; I don't need all this expenditure; it is none of it any use to me; you gentlemen can contribute as much as you like, but leave me as I was without troubling me; I want to go on just as I was; I am the owner of this land; I was owner of it before you came here, and I don't want to be disturbed." Well, he would not give anything. If you are going to legalize the imposition of taxation you should endeavour to enforce it in the same way as it would be voluntarily contributed if the people were going to get the benefit of the expenditure of that money who are asked to raise that money amongst themselves without compulsion. Taking it from that point of view it seems to me—and that is practically the view of the condition of things to-day—we are dealing with things as they are, not with any theoretical view of things as they might possibly be, and in connection with that I will express here a word of sympathy for a class of men who have been very much berated by the gentlemen who have spoken, and that is the land speculators; unfortunately a great many respectable men in Ontario are land poor by reason of their hopes of gain through the ownership of land. I think land speculators need the sympathy of the community probably more than any body else, because even with the large proportion of taxation now imposed on buildings and personal property the owner of vacant land thinks that if he holds it for five or ten years, and pays interest and taxes, no matter what price he gets for it he is the loser, and if you were to tax vacant land more heavily by taking off taxation on all other kinds of improved property you would practically confiscate it. There is another view beyond that; in raising the money necessary for municipal purposes if that class of property alone was taxed it would all be thrown upon the market. In Toronto here we had an example a short time ago of a large number of lots being offered for sale for taxes and scarcely any of them bringing the amount of taxes imposed on them. If they were taxed then it would mean that the fund, the property out of which the taxes were to come, could not be realized, and no taxes could be raised, and our police force would have to be disbanded, and our fire company the same, and we would have to sink wells again and drink water dug out from the neighbourhood of our dwellings and go back to pretty much a state of nature. That it seems to me, would be the logical result of taking the taxation entirely off all other kinds of property except real estate. There would not be sufficient revenue for the purpose unless you confiscated all the property in the municipality.

The CHAIRMAN: That, I understand is Mr. Thompson's proposition, that the corporation, the City, should be entitled to all the ground rents, the whole of it.

Mr. MACKELCAN: And pay no compensation to the present owner?

The CHAIRMAN: He said nothing about that.

Mr. MACKELCAN: Of course, if they paid compensation to the present owners that would swallow up the fund in advance, and the present corporation would get no good of it, but looking at it from a practical standpoint it seems to me that all these classes of property that benefit by the expenditure of money that was raised by municipal taxation should contribute towards it, and if it can be so arranged that they should contribute in the proportion to the benefit that they receive, then there are many classes of property that should be taxed more heavily than vacant land. I will now address myself to the general question of the taxation of real estate. Assuming that taxation is to be levied by them upon the original value of the land—and it is difficult sometimes to find what the original value of land was—I think the government sold property at fifty cents an acre, nearly all the land in this Province, a century ago—and the present value for the purposes of business consists in a great measure not of the land itself but of the purposes for which that land can be utilized, and the people who have buildings on that land would of course contribute in paying the taxes on their buildings as well as in paying taxes upon the land towards the public revenue. There is no reason why the buildings should not, according to my view, contribute quite as well as the land, and to the full measure of their value. Real estate is, of course, according to English law, a mixed product. All the erections of a permanent character that are put upon the land become part of the real estate, and it is all regarded as one in value. Property is not valued separately as land and building, but the whole property is valued together in the condition in which it is.

The land is changed by the addition of buildings. Sometimes there are excavations in the land, as well as erections upon it. There are changes made in the surface both below and above, and we will take the property as it stands now when the assessment is taken as being the value to be taxed. It is of course convenient for the assessors—and I believe that method is adopted here, it is in our city—in assessing property, in order as nearly as possible to make the assessment equal, to take the land at so much a foot in all the different streets, and having in that way equalized the assessment upon all the owners of that property, then they put a separate valuation on the buildings, and they add together the value of the land and the value of the buildings. There may be two parcels of land equally valuable. One may have a building worth one hundred thousand dollars on it and another one not worth more than twenty thousand dollars; they take the value of the land per foot and the value of the building, and the result is arrived at as the value of the whole property; and it seems to me that probably it would be convenient to continue the present mode of assessment, that is to say, the two valued together in one as real property, although in arriving at that conclusion it is quite convenient that the assessors' blotter, as used in the Court of Revision, should show the land and buildings taken in such a way that it can be seen that the land has been valued in the same proportion as the lands in the immediate neighborhood, and whether the building has been rated too high or rated at its real value, rated at its fair and reasonable value or not. And that brings me to the point that our assessment law as at present framed brings in an element of difficulty which I think might be eliminated by a change in section 28. That section is this:

"Except in the case of mineral lands hereinafter provided for, real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor."

That clause has been the cause is a very great deal of difficulty in matters of assessment. By some perversity the question is always put in this way: "Now, if a man owed you twenty thousand dollars and owned this property, how much would you be willing to take it for? What value would you be willing to take it at?" The answer is, "Well, I don't want the property, it is no use to me." "Would you take it for five thousand dollars?" "No, I do not know; it would likely take me some time to turn around and sell it, and meantime it is no use to me." And so it goes on. The property is probably assessed for ten thousand dollars and is good value for ten thousand dollars, and the owner would not part with it for that money, but the question is put this way, "Suppose you were a creditor of a solvent debtor how much would you be willing to take his property at?" And many local Judges, of course, are guided by answers to questions put in that way, and it has fixed the rate of assessment upon many a valuable property. I know of a case of property in our own town, a very valuable property which cost over one hundred thousand dollars, a private residence, with beautiful grounds, and so on, built by a man who displayed a great deal of taste in making a very handsome home for himself, and that property of course was receiving the benefit of fire protection and all the other benefits that were received by other properties in the city but the question was put to the Bank Manager, "Now, supposing this man owed the bank fifty thousand dollars, and you were offered this property towards the payment of it, what would you take it for?" "Well," he said, "It would be no use to us; I would not like to allow more than twenty thousand dollars for it." Consequently the Court of Revision were asked to put down the assessment of that property as this being the best price that anybody would take this property for in payment of a just debt. I do not think that was at all the intended meaning of the statute. I think what it was intended to mean was this: The property is to be valued not as if it were being put on the market for cash and you had to find somebody with cash enough to buy it, but suppose the bargain were agreed upon between parties by mutual consent, and a third party were called in to appraise the value, one being willing to sell and the other being willing to purchase, what would be the fair value to put on that between man and man? But that is not the view that is usually taken, although I think that is the view that was really intended. That method of valuation is applied to property of that kind, so that the poor man gets a great deal the worse of it. Take fifty houses that cost one thousand dollars a piece, they are assessed for fifty thousand dollars; but you take a private residence that cost fifty thousand dollars, the owner of which is much better able to pay taxes perhaps than the owner of the

houses, and he gets his assessment put down to twenty thousand dollars simply because there is nobody else in the town rich enough to keep up the place or buy it. Well, I could not afford to buy that place, and it would not be worth more than ten or twenty thousand dollars because there is nobody there as wealthy as this man, there is nobody that could afford to buy it, but at any rate to him that property is worth probably what it cost him. It gives him the position probably of being the Nabob of the community there. It is a source of pride and satisfaction to him, and he would not like to part with it for any money; but still when it comes before the assessor he does not want to pay any taxes on it more than what he would have to pay on it if it were thrown on the market.

Mr. JUSTICE MACMAHON: If he ceases to be the Nabob of the locality by reason of his not having the means to keep up the establishment it must necessarily be thrown on the market.

Mr. MACKELCAN: It might come to the market, but for all that it should be assessed at its fair value, and that is the point I am coming to now, that it is not just auction value or value at forced sale that all property is assessed at. Then in a community as was very well put by a Judge once, "While I cannot give that much for it, the property is not saleable at all, while just at this particular time there is no sale for any property at all, real estate is stagnant on the market, shall we wipe out the whole assessment because there is no sale for real estate?" Your Lordship is aware that not many years ago that was the condition of the real estate market, that you could not give away property; but nevertheless the assessment should not be cut down to simply what could be got for property; that would be practically nothing.

Mr. JUSTICE MACMAHON: Take this case then: the mortgagee of that particular twenty or twenty five thousand dollars says, "I am going to exercise the power of sale," and he will take all he can get for it, and he gets twenty or twenty-five thousand dollars, is not that the value at that time?

Mr. MACKELCAN: I do not think the value at a mortgage sale is the value.

Mr. JUSTICE MACMAHON: It is not always the case; it may be the case with that class of property.

Mr. MACKELCAN: Then, your Lordship will observe this: the man that buys that property for twenty-five thousand dollars will be congratulating himself and saying, "I have got that fifty thousand dollar property for twenty-five thousand dollars; I have got a bargain; it is worth more than I gave for it; under exceptional circumstances I made a good bargain in that way." Now, one difficulty arising from the use of those words in the Statute was pointed out very strongly by the Court of Appeal in the case of the Bell Telephone Co. in the City of Hamilton, when these words were invoked for a double purpose, the two purposes being these: one was that the property had, under the present state of the law, to be assessed in every ward in which it was situated, and then under the section I am referring to now it had to be valued as it would be if taken by a creditor from a solvent debtor. In the first place the assessment in each ward was looked upon as an assessment of a portion of the property which, being separate from all the rest of the concern to which it belonged, was reduced simply in value to what it would be worth to tear it up if it were torn up and dissevered altogether. The land only was assessed as real estate. Well, the result of these two sections together—one requiring the assessment in wards and the other requiring property to be valued as if it were being taken by a creditor from a solvent debtor—was that the value instead of being taken as the whole value of the property as a going concern and what it was worth to put it there, what it would cost to place it there then, or what it was worth as it stood, it was simply valued as so much scrap iron. Now, that condition could be got over by simply giving authority to assess property of that kind in one ward altogether; and I may say that the Municipal Association at their different meetings discussed that subject very fully and they asked that this provision be made in the Assessment Act:

"That provision be made in The Assessment Act that real property belonging to or in the possession of any person or incorporated company, and extending over more than one ward in any city or town, may be assessed together in any one of such wards at the option of the assessor, or that the assessment of the property may be apportioned amongst two or more of such wards in such manner as he may deem convenient, and that in either case the property shall be valued as a whole or an integral part of the whole."

That would bring about the assessment of property of that class upon the same footing as all other property is assessed, and that the Assessor and the Court of Revision have the option of ascertaining the true value of the property and of assessing it as such. Now, coming to the second question which I alluded to before, of this valuation of property as if taken over by a creditor from a debtor, I will read a few sentences from the Judgment of Chief Justice Burton on the appeal of the Bell Telephone Company in 25 Appeal Reports:

"When our assessment laws were first introduced, railway, gas and water companies and electric telegraph companies had no existence and it can be readily understood that there is considerable difficulty in applying to modern requirements provisions which were amply sufficient for the much more simple state of assessable property in those days" (page 352)

"It is perhaps to be regretted that a change of this radical kind should not have been effected by legislation rather than judicial decision, and proper machinery provided for assessing under the altered circumstances, but I have been unable to convince myself that the mode resorted to was a compliance with the Act of Parliament, and that the company are entitled to our decision to that effect" (page 354)

Mr. Justice Osler, at page 355, said:

"This case is another illustration of the practical difficulty in applying the provisions of the Assessment Act to a specific kind of property which until a very recent period was never supposed to be within their scope; and the assessment of which was probably never contemplated by the framers of the Act."

It seems to me that all these difficulties could be got over by the amendment I have suggested and by this further amendment, which, I may say was very fully discussed and considered, and one that required a great deal of thought and discussion—"that all real and personal property be assessed at its fair value." I will read in connection with that an extract from the judgment of an American court where the matter is very ably discussed by the Judge. He says:

"If the value of the plaintiffs' Strafford estate depends in a measure on its being controlled for the benefit of their Dover estate, and if the value of the latter depends in a measure upon the control of the former, this mutual partial dependence of value is a circumstance to be considered in the appraisal of each of the estates, and to be carefully considered, so that no part of the fair value of either shall be sacrificed for the undue advantage of the other. Such a mutual partial dependence of the values of the estate may create a difficulty, great or small, in the valuation of each; but such a difficulty, if it exists, is one of fact for which the law is not responsible, and which is to be solved, like other difficulties in questions of fact, upon diligent investigations, by candid, deliberate and sound judgment."

"When we want to know what any piece of property is worth for the purpose of taxation, or setting off a homestead, or dividing an estate among heirs, or making partition among tenants in common, or not attaching personal property exempt from attachment, or levying an execution on real estate, or imposing the penalty of larceny, the nature of the inquiry is not altered by an accumulation or omission of definitive adjectives and explanatory terms descriptive of the value to be ascertained."

After giving numerous illustrations the judgment proceeds as follows:

"These instances are sufficient to show that when property is to be appraised at what it is worth, the use of terms descriptive of value is unnecessary. The value need not be required to be the real, full, true, just, fair, saleable, market value in money, no more and no less. No one would suppose that the value is to be an unreal, partial, false, unjust, unfair, unsaleable or unmarketable value, or in anything else than money or more or less than the property is worth, unless a departure from the usual course of business and the ordinary meaning of value were marked out by the law in an unmistakable manner.

"'The selectmen shall appraise all taxable property at its full and true value in money.'" The words 'Full and true in money' give the statute no meaning which it would not have without them. As words of description they are superfluous. They are mere words of emphasis and not of necessary definition. And if the words 'at its full and true value in money' had been omitted the Statute would have meant precisely what it means now."

"An appraisal of property signifies a valuation of it or an estimation of its value unless some other sense is indicated. The common practice of undervaluing real estate for the purpose of taxation may have led the Legislature to employ an unusual number of synonymous words not to convey their meaning but to impress it upon selectmen. Whatever the object of the tautology, it does not modify the legal or natural interpretation of the word 'appraise' If the Legislature had said 'The selectmen shall appraise all taxable property' and stopped there it would be the duty of the selectmen to appraise all taxable property at what it is worth, and that duty is emphasized, not changed, by the other words of the statute."

The CHAIRMAN: Where is that case?

Mr. MCKELCAN: It is the case of Cocheco Co. v. Strafford, 51 New Hampshire Reports, pages 478 to 482.

The CHAIRMAN: You say fair value; you think "fair" adds something?

Mr. MCKELCAN: I think so for this reason—

The CHAIRMAN: You differ from the learned Judge.

Mr. MCKELCAN. Yes, sir, only to that extent. But for this reason: the object of assessment is not so much to get at the actual value of the property, but to equalize the assessment throughout the whole community. In one municipality they may have a high assessment, and if it is high throughout the municipality it is just and fair, because everybody then contributes the equal proportion. In other municipalities it may be assessed at a low rate. That is also fair, because all contribute on a like basis. Now, the reason the word "fair" value was left in here was this: what is a fair value as compared with a valuation placed upon all other property in the neghborhood or in the municipality. That the assessment shall be fair and equal throughout the municipality. And that is, of course, very much a question oftentimes of local judgment. The Assessors and the Court of Revision, and perhaps the local Judge, can say perhaps very much better what would be the fair value of that property than to imagine something which did not exist, for instance, imagine the owner of it to be in debt, which he is not, and imagine him to have a creditor who would be willing to take that property, which is a great improbability.

The CHAIRMAN: I think the old clause is quite discredited, the old definition.

Mr. MACKELCAN: It seems to me that in one case saying it is a fair value you are dealing with an existing state of things; in another you are assuming an hypothesis and trying to put yourself in a situation which does not exist, and to make an appraisement from those standpoints, and it seems to me that it only complicates the question very much.

Mr. JUSTICE MACMAHON: Under that section as it exists now you say it makes the creditor the valuer of the property?

Mr MACKELCAN: Yes, at any rate that is the way it is usually construed by the Courts of Revision and by County Judges, although I do not think that is the intention of the Statute; but we cannot get anybody to look at it in any other way and so they make that the test. Well, in connection with that same subject I will call the attention of the Commission to something in the Assessment Act which is inconsistent, that is to say, this section 28 refers to both real and personal property, and section 55 relates to the return to be made by the assessor (section cited), and according to that section we find clause two of the affidavit relating to personal property quite different in form, although it is to be borne in mind that personal property is to be valued in the same way.

The CHAIRMAN: Are you not going into other subjects now?

Mr. MACKELCAN: This is covered by that subject, and I was going to show the Commissioners the inconsistency. It goes on to say that the assessor has set down the values according to the best of his information and belief. This is entirely different from his declaration in regard to the real estate, although the value of each is covered by the same section, section 28. It seems to me it would be far better to have this read, "That I have set down the same according to the best of my information and belief." That would be best in relation to the real estate as well as the personal estate.

The CHAIRMAN: Then you think there is no ground for exempting buildings and improvements from taxation?

Mr. MacKelcan: No; it seems to me the purposes for which the moneys that are raised by taxation are expended are of very much more importance to the owners of buildings and for the preservation of property than simply to the owners of land.

The Chairman: The question relating to municipal taxation?

Mr. MacKelcan: Yes, and I have endeavoured to show that I thought the just and fair way to regulate the compulsory payment of taxes would be very much on the same principle as a voluntary contribution would be asked for it there were no means of enforcing the contributions towards the funds that were requisite for these public purposes of a local character.

The Chairman: Is there any one else desiring to address us on the same side and present the same view as Mr. MacKelcan?

Mr. James S. Fullerton, Q.C. (of Toronto). As representing the City of Toronto I would like to say a word or two with regard to clause 28. It seems to me the words of clause 28 have been rather changed from what they were intended to be as they appear in the Statute in the various decisions that have taken place from time to time, and that we must get some form of words to get back to what was the original intention of the Legislature. (Reads section 28). We have in that, it seems to me, two elements, or at the most, three elements spoken of. We have the appraisement as it would be made for the purpose of or suggesting the payment of a just debt from a solvent debtor. We have no creditor mentioned. We have no market value suggested, or at least if it is suggested it is not distinctly put forward. The person for whom the assessment is to be made is the owner of the property, the person to be assessed; and it has always seemed to me that the real object to get at was: You have a piece of property belonging to A.; you want to assess it; if A. were called upon to part with this piece of property to pay a just debt what would he take for it? You have not the market value; you have not the creditor; you have not all those other elements that have been brought in; at least at most they are only suggestive, and yet they have been made the real criterion.

The Chairman: You want it to stand as it is, then?

Mr. Fullerton: No, I want it to stand, not as it has been interpreted—what I want is, such words used as would indicate that is the assessment of Jones' property as it stands—

Mr. Justice MacMahon: You want those words eliminated in order to make sense of it?

Mr. Fullerton: Well, perhaps the words "fair value" go a long distance toward that and leave it open to appraise it on the fair value to the owner. I am merely pointing out that what was intended in the first place was that you should take a piece of land owned by Mr. Jones and simply look at that land and say how much that land is worth as it stands there to-day in Mr. Jones' hands.

Mr. Justice MacMahon: The question of debtor and creditor ought never to arise as to assessment, so that we can eliminate these words?

Mr. Fullerton: Exactly, that is simply the point I am making, that we have brought in an element of debtor and creditor and we have put the stress on this point. Jones has a piece of land there that he wants, and that he is using, and we get away from Jones and we say, "can you find me anybody else that wants that land and is willing to pay for it?" Take the Union Station, for instance, there are two railway companies using that. Put that on our market to-day to sell outside of those two companies. You have no market for it, because nobody wants a Union Station; but there is no question it cost so much to put it there; it has so much value, and it ought to be assessed.

The Chairman: That is hardly the subject that is before us now except incidentally.

Mr. Fullerton: Well, I think, Mr. Chairman, you are right in that, except, if you will pardon me—

The Chairman: If you think that improvements ought not to be taxed at all then it is a different question.

Mr Fullerton: The improvements have so far been taxed as land, and as part of the land, and I am dealing with section 28 now, which must apply to each discussion that comes before you each day. I do not know that it would be more appropriate to take those up next week than on this particular subject. I mean section 28, and what I say is that I think some change must be made in Section 28 that will get at the land in the

hands of the man that owns it without seeking what it will sell for on a particular day. It is the value to the owner, not whether there is a market or not.

The CHAIRMAN: Do you agree with Mr. MacKelcan that the words "fair value" would answer every purpose?

Mr. FULLERTON: I would like to consider that a little farther. It goes a long way towards meeting my views at the present moment.

The CHAIRMAN: Do you support his view on the other point, namely that all the assessment should be made over the whole city as applicable to franchises?

Mr. FULLERTON: Personally I have a good deal of sympathy with the views expressed by Mr. Douglas and Mr. Thompson. I do not think they have at present arrived at that state when the city is prepared to relieve all improvements from assessment.

The CHAIRMAN: The question of assessing separately in each ward?

Mr. FULLERTON: So far as assessing in each ward is concerned it seems to me that is the only fair way at which we can get at it.

The CHAIRMAN: You think the section should be changed.

Mr. FULLERTON: The section should be changed so that it would be all assessed in one ward, or if assessed in each ward it would be assessed as part of the concern. Suppose a dividing line should pass through the centre of a house, the house being partly in one ward and partly in another, if the present assessment should be applied to future questions that house if torn down would be assessed as bricks and mortar.

The CHAIRMAN: Mr. MacKelcan has drafted a clause.

Mr. FULLERTON: And the clause seems to me to be all right as far as I have looked into it. I only saw it this morning, but it seems to me to cover the point I would make.

The CHAIRMAN: Where property is partly in one ward and partly in another, or partly in one municipality and partly in another—

Mr. FULLERTON: It should be assessed as one.

The CHAIRMAN: And supposing it was partly in one municipality and partly in another—

Mr. FULLERTON: Suppose it was a house, it would be half a house, not as so much brick and mortar.

Mr. JUSTICE MACMAHON: It would be half of the property as improved.

The CHAIRMAN: Assess the whole and then divide?

Mr. FULLERTON: Assess the whole and then divide. The words used here "as a whole or as an integral part of a whole" seem to me to cover that idea. Now, to illustrate that and show how far that went in its application to the street railway of the city of Toronto. We had assessed Ward One in the City of Toronto. The railway and ourselves agreeing, we came before the Judges, but without going into evidence we agreed that the Toronto Street Railway Company was properly assessable at six thousand three hundred dollars a mile, and that assessment went by consent for Ward One. We assessed the wards separately and took them up at different times. In the meantime judgment in the City of Hamilton vs. the Bell Telephone Co. was delivered, and the result was that in the other wards the street railway appealed, and that appeal resulted in the assessing of the remainder of the wards at nine hundred dollars per mile, although there was no pretence or contention that the other wards were not in as good condition, and of equal value to the ward that we consented to the assessment in; so that the result of that decision was to reduce the assessment to one seventh part of what the railway agreed to, because it was assessed, as I have illustrated, not as a house, but as bricks and mortar.

The CHAIRMAN: I think all understand the application that arises.

Mr. FULLERTON: Very well. That being so, I think the assessment should be as Mr. MacKelcan indicated, so that it should be assessed as an integral part of the whole.

The CHAIRMAN: Does anyone else desire to be heard on the same side? Mr. Thompson or Mr. Douglass may have something to say.

Mr. ALAN C. THOMPSON: Mr. MacKelcan referred to the question of police and fire protection, and water, as something in which the land had no interest, as something entirely for the protection of buildings; and he went further and stated that in a municipality were there are no legal means of levying taxes those who wanted to have these improvements would go around and the only persons who would contribute to these things would be the owners of buildings. I can only say that I am afraid our friend has had no experience in real estate speculation. I have had considerable experience in this way,

and whenever a public improvement was promulgated the owners of the land were the most active in putting it through. Take a city were we have fire and police protection and good water and all these conveniencies, and supposing through some circumstances these things were swept out in one night, I would like to ask what effect it would have on land values? If any gentleman here had a choice to locate in one of two towns, each with the same population, with the same facilities for doing business, and one had good fire and police protection, and good schools and all those things, and the other had to send his children and pay for them, had to go out at night with a lantern, and when driving in the streets the mud would go up to the axles, I would like to know in which of those two places he would pay the most rent for the land he was going to use. Would it not be the place were all these things were provided by the municipality? Would not the land value there be greatly in excess of the land value in a locality were none of these things were. And further, would it not cost more money to put buildings in a locality where there was no police and fire protection, and where roads were bad, than it would in a place were we had all those things? Would not the cost of building be greater, and would not the cost to business be greater, and would not the effect of building be poorer?

Mr. Douglass: Mr. MacKelcan pronounced my address theory. I have heard the expression again and again.

The Chairman: That is mere rhetoric.

Mr. Douglass: I am glad to hear you say so. It saves me the trouble of pointing out; but so far as his argument is concerned it did seem to me that he was dealing with suppositious cases and keeping very largely from the facts. So far as I was concerned I don't remember a single statement which I made which was not accurately in accordance with the facts that I gave in argument, in which he could not point out the slightest fallacy. Now, as to the second point in which he raised the question of confiscation. Allow me to point out what is the object of taking off improvements. The land should be used either for producing crops or goods or houses, or it may be used for the purpose of extortion, speculation. When we take taxes off improvements we confiscate no man's lands. We simply prevent him from using land for extortion. We say, use it all you please for improvement and we will impose no taxes whatever on your improvements. Another thing which he utterly ignored, and which is essential to its discussion, is the incidence of taxation. Go to any city and you will find men there working ten hours a day to maintain the institutions of the country, year in and year out. For all eternity we cannot escape the law of toil. Take the centuries in the history of this country, and the man who gets possession of land which has acquired value in consequence of its location in a great commercial centre, that man need not do the first act from the time that he is born until the time he dies to support society; he is wholly exempt from taxation; whereas on the other portion we put the burden and we keep it there continually.

The Chairman: What would you do with the man who pays a very high price for it?

Mr. Douglass: If he pays a very high price assess him according to the high price. If it is an exceptional price he pays, because the land had special value, why—

The Chairman: He buys it according to its enhanced value, the man who buys land in Toronto to-day.

Mr Douglass: Just according to its value. If its value is high this year assess it accordingly. If it goes down put the assessment down; if it goes up again put the assessment up—just according to its value.

Mr. Wilkie: Would the result of your system be to concentrate population in particular localities and to force the erection of huge buildings fifteen and twenty storeys high? If the land is not to be taxed with the improvement it would even change the whole style of architecture?

Mr Douglass: You take the effect of our method of speculation and taxation to-day. Some people assert that it leaves more than three-quarters of the land of this continent held unused

Mr Wilkie: I was asking what the effect would be.

Mr. Douglass: What is the effect?—that we concentrate a population on the rest of the land; and I have seen one estate of seven thousand acres held by a speculator on which not a man could go and put a hut. They had to go and find places elsewhere.

Worse than that, the whole effect of the last century has been to drive population into the centres. One hundred years ago the population was three per cent. in the city ; it is now upwards of fifty per cent, and I can easily see that our method of assessing is driving our population into the great centres. Take the men working in a factory. They must be within the sound of the bell of the factory They cannot afford to live four or five miles away from it as they should do, and as they would do surely under any just system of assessment.

Mr. JUSTICE MACMAHON : It must necessarily drive them into the centre of trade and commerce and manufacture.

Mr. WILKIE : Has that system been tried in any municipality you recollect of ?

Mr. DOUGLASS : Oh, yes ; it has been tried ten years in Manitoba. I spent three months in Manitoba and travelled some and inquired of the members of the government and members of parliament and farmers.

Mr. WILKIE ? Not in Winnipeg ?

Mr. DOUGLASS : Not in Winnipeg.

Mr. WILKIE : It has not been tried in any city that you know ?

Mr. DOUGLASS : It was tried in one city in the States awhile, but not sufficiently long. It did have some effect, because during the time it was tried there, in Maryland, there were more buildings went up that one year than had gone up before. In Victoria they reduced the assessment one-half on improvements. I heard one gentleman in this city who was strongly opposed to the change ; he had a lot of ramshackles on the land, but no sooner was the legislation effected than he tore down the buildings and put up good buildings on his land. Then see the terrible effect in this city—the Freehold Loan building, the Confederation Life building, the Bank of Commerce building, the Board of Trade building, the Canada Life building—has any of those buildings paid ? They paid the city thousands and thousands of taxes, and some of those buildings I do not think I would take as a gift to-day and have to pay the expenses of running and have to pay the taxes.

JAMES PARRISH, of Mitchell, said : Gentlemen, we understood to-day was to be the day set apart for hearing the grievances of what might be said on the assessment of farm lands inside of corporations. Several of us here have farms inside of corporations and we think that our taxes are ever so much too high.

The CHAIRMAN : We will be very glad to hear what you have to say.

Mr. PARRISH : Of course we don't complain that the assessment is too high on our lands, but it is the rate of mills which is put on our property that causes our taxes to be so high. They are not assessed more than the value, we don't say that, more than what we would like to take for them, but as a rule in towns the rate of twenty mills on the dollar, every dollar the property is worth, brings our property in a way that we have to pay so much taxes on it, that it is a burden on farmers inside the corporation.

The CHAIRMAN : You mean town or village corporations ?

Mr. PARRISH : Yes, town or village, I suppose more than cities. There are lots of towns throughout the Province that there will be two or three hundred acres inside a corporation. Well, they will be valued at five thousand dollars. Well, there are very few towns but what have the right to say twenty mills on the dollar, which leaves 100 acres to pay one hundred dollars in taxes. We have a few letters here from parties having farms in corporations, stating what their ideas are. We would like some redress either in the valuation or in a special rate on farm property.

The CHAIRMAN : How does it happen that the limits of the corporation have included this land ?

Mr. PARRISH : We do not know that.

The CHAIRMAN : Mere farm land ?

Mr. PARRISH : Purely farm land.

The CHAIRMAN : Used and occupied as farm property ?

Mr. PARRISH : Yes, and no prospect whatever of ever being surveyed out or used as building lots. For my part I am away half a mile or more from any village property.

The CHAIRMAN : Are you within the limits of the village ?

Mr. PARRISH : Yes ; of the town of Mitchell, and I have one hundred acres ; we are out just on the limit.

The CHAIRMAN : How many acres have you within the limits of the corporation ?

Mr. Parrish : 100 acres.

The Chairman : And your 100 acres are assessed at five thousand dollars ?

Mr. Parrish : Well, four thousand five hundred dollars.

The Chairman : And the tax is twenty mills.

Mr. Parish : Twenty mills.

The Chairman : How is it you allowed your land to be included in the town ?

Mr. Parish : I could not help that ; it was taken in.

The Chairman : Before you got it ?

Mr. Parrish : Before I bought it, and I guess probably before my father bought it. I took it from my father, of course. My neighbour just outside the corporation has 100 acres just as good in every way alongside of it, and his taxes are from thirty three to thirty five dollars a year ; that is the total tax, just in Logan, just outside the corporation, but has the benefits of the town, you may say, about as much as me, for I am that far away from fire protection or waterworks, or electric light that my buildings might be burned at any time and get no more benefit ; they could not reach me within half a mile, any fire protection they have, still I pay the same rate of mills as the property right in the town

The Chairman : Would your neighbour's land sell for as much as yours ?

Mr. Parish : Oh, yes, a good deal more, of course.

The Chairman : You think that ought to be changed ?

Mr. Parrish : Yes.

The Chairman : Is that all you have to say ?

Mr. Parish : Unless I leave with you a letter or two from others to consider. I have a letter from a friend in Listowel. He has a hundred acres in the town, but of course his town assesses his property at about half its value. They are easy with him, there; all towns don't do alike. If our town would do the same with me I would never say a word, I would be perfectly satisfied. If there was some law or provision to compel corporations to deal like that with farm property I would be perfectly satisfied and pay my taxes in the town if they were reasonable.

Mr Parrish handed in letter from Mr. R. R. Hay of Listowel. (a)

Mr. John M. Lyons, of Tottenham, farmer, was asked what was his grievance. Mr. Lyons said : Just the same as you have heard. My land is in Tottenham. I have received letters from several parties who have property in towns. It shows the difference in the rate of assessment they pay.

The Chairman : Have you anything to add to what Mr. Parrish has said ?

Mr. Lyons : I could not add anything to what he has said. These letters are from people with similar grievances. I will state how it is with me in the village of Tottenham. This year's taxes is eighty dollars. I own eighty-five acres in the village, and I have paid as high as one hundred and ten dollars a year in taxes. I have fifty acres in the township, including building school this year, and it is only $20.33. The tax is not so much what we object to as the rate. This year it will be between seventy and eighty dollars and I have paid as high as one hundred and ten dollars, while on my fifty acres in the township I pay only $20 33, showing the loss we incur by being in incorporated villages. We are looked upon, as a rule, as being something better than those outside the village on account of us having this property in the village. At the same time those adjoining us receive just as much benefit as we receive, and yet they don't have to incur anything like what we incur in those villages. I might state what it is that we do lose by it. Now, as a rule, farmers outside incorporated villages don't have to lose what we have in dogs and fowl and one thing and another that occurs in those villages that don't occur with them outside. For my part I have not had any sheep for a number of years on account of the village dogs. Certain crops, if I sow them convenient to the village, I get them mostly destroyed, particularly peas. I cannot sow that crop. If I sow it away back on the back part of the farm they will hardly get through there, but if it is convenient to the village I am sure to lose a great deal of them. What I wish to bring before the Commission is the loss by being in the village, and yet the heavy rate of taxation we incur yearly.

The Chairman : What change do you think ought to be made ?

(a) See Appendix A, No. 2.

Mr. LYONS: What we want is to be assessed no higher than farm lands adjoining us —the rate to be no higher than it is in the township.

Mr. MACPHERSON: Did you buy that land yourself?

Mr. LYONS: I did.

Mr. MCPHERSON: Were you aware of the taxation when you bought it?

Mr. LYONS: No sir, by no means; the village was not incorporated; I bought it twenty-five years ago.

Mr. MACPHERSON: It was incorporated against your will?

Mr. LYONS: It was against my will, certainly; and there is another thing that will hurt us considerably, that is the school rate in incorporated villages. I pay from forty to forty-five dollars a year school rate in that village and parties in the village that pay no rate whatever have far more benefit, because I have no children going to the school and they have four or five and pay no tax whatever. I am educating their children. Now, I don't dispute whatever of paying a tax for schools, but there is such a difference in incorporated villages to what there is in the township. The farmer adjoining me has a school in his section, and he sends the children to this school I do, and I am paying for the education of his children. The law is such that the school you are nearest to you are privileged to send your children to, and here I am paying for his children and in his own school section he only pays a trifle in comparison with what I do in the village school.

Mr. MCKAY: Do the trustees charge him any rate?

Mr. LYONS: They charge him fifty cents. a month for each child.

What I want and what the rest of us farmers want is to be brought on a par with those farmers adjoining us. Not only that, but if in incorporated villages our property has been depreciated in value, and if we wish to rent we cannot rent within one third as much as the farmer adjoining us.

The CHAIRMAN: It would serve your purpose to have the limits of the corporation reduced, confined to its properties?

Mr. LYONS: Yes, it would so. I think farm lands ought never to have been included in incorporated villages. We have nothing as a rule in common with villages. Mr. Wright is here from the town of Beeton, and he represents Beeton and he has been warden of the county of Simcoe in his day, and probably he can relate the matter better than I can.

Mr. JOSEPH WRIGHT, of Beeton: Gentlemen, I agree pretty much with what the former speakers have said, and it is a detriment to a great many farmers having farm lands inside of incorporated villages, for they are taxed, and taxed heavily for what is no benefit to them. In the village of Beeton they have the electric light and water works, and they have built a large town hall, and I do not think they are any benefit to the farmers. I could quote several instances. One man has ten acres of land inside a village corporation; for that ten acres he paid eight dollars and forty cents. taxes. He had forty acres adjoining in the township, he had a brick house and a good barn upon it, all under cultivation, and for these forty acres he paid sixteen dollars and forty cents. taxes. Another one had fifty-one acres inside the corporation, and one hundred and twelve acres in the adjoining township. He paid thirty-one dollars and fifty cents. taxes for the fifty-one acres, and for the one hundred and twelve acres he paid thirty-four dollars and forty cents. Another gentleman has nineteen acres inside the village, and one hundred and seventy-two acres in the township. In that village he was assessed for one thousand dollars at twenty-one mills on those nineteen acres, and he pays twenty-one dollars taxes. In the township he pays fifty six dollars for the 172 acres, and on one of the farms there is a good house and outbuildings, and on the other farm there is no house but good barns. I might say there is another man, his farm buildings are inside the corporation; he has seventeen and a half acres, and he is assessed for one thousand four hundred dollars, and he pays twenty-nine dollars and forty cents. taxes, and the other portion of his land is assessed at about thirty five dollars an acre.

The CHAIRMAN: You had something to say when the limits of the corporation were fixed?

Mr. WRIGHT: I had, and I opposed the incorporation.

The CHAIRMAN: You opposed your land being taken in?

Mr. WRIGHT: Yes, sir, and so did, I think, every farmer that is inside the corporation of Beeton, and more than that, at the time it was incorporated it was appealed against and the by-law quashed, but certain members had such a pull with the government that they got a special Act to legalize it, and made us pay a portion of the expenses for legalizing the by-law as well.

Mr. MCKAY: Is there any complaint that the assessment of the village lots is not high enough.

Mr. WRIGHT: No, not in regard to the village lots, but the complaint is that the farms in the village are assessed too high in relation to the farms in the township. Now, I would not complain over the school rate, as Mr. Lyons does, for we have several hundred acres of land outside the corporation that is in the school section, and was at the time Beeton was incorporated, and I think it just that we should pay our school taxes, but I do not think the farmers on the farm lands should have to pay electric light and water works and town hall rates.

The CHAIRMAN: But your school tax is upon a high assessment, so you are hurt there.

Mr. WRIGHT: Yes, we are hurt, but I am not complaining of that portion of it.

Mr. PRATT: You do not complain your land is over-assessed?

Mr. WRIGHT: Yes, I do, according to the land adjoining in the same school section.

Mr. PRATT: It is not over-valued?

Mr WRIGHT: I will not say it is over-valued, but according to the adjoining lands and in the same school section.

Mr. PRATT: Is the outside land adjoining assessed the same as yours?

Mr. WRIGHT: No, we are assessed double the amount of farm lands adjoining us.

Mr. PARRISH: I have here a little diagram of the town of Mitchell. (Diagram produced, showing that by running the lines east and west Mr. Parrish would be outside the limits) I would prefer to be out if it was in the power of the Commission to let me out, that would be my desire; but if not, I would like some way of redress.

Commission adjourned at 1.15 to 10 30 a.m. to morrow.

SECOND DAY, WEDNESDAY, NOVEMBER 14th

The Commission resumed at 10 30 a.m.

All the Commissioners present except Mr. Butler

CHAIRMAN: We are now prepared to hear further discussion of the first question.

Mr. MACKELCAN: Mr. Chairman, and gentlemen, with regard to the assessment of Real Estate, section 29 of the Assessment Act deals with the matter in this way:

> "In assessing vacant ground or ground used as a farm, garden, or nursery, and not in immediate demand for building purposes, in cities, towns, or villages, whether incorporated or not, the value of such vacant or other ground shall be that at which sales of it can be freely made, and where no sales can be reasonably expected during the current year, the assessors shall, where the extent of such grounds exceeds two acres in cities and ten acres in towns and incorporated villages, value such land as though it was held for farming or gardening purposes, with such percentage added thereto as the situation of the land reasonably calls for."

That section was the subject of a good deal of discussion in the Legislature in the session of 1895, and the clause was repealed there, or rather the amendment as it now stands was rejected; but when the matter was finally passed in the House the question came up about three o'clock in the morning when there were only a very few members present, somebody who advocated this change in the law to ease the assessment of vacant lots was on the watch and had this reinserted just in the dying hours of the Legislature and nobody has disturbed it since.

CHAIRMAN: What year was that?

Mr. MacKelcan: That was in 1895. The reason I say 1895, I have the draft bill here in my hand with the amendments as made at that time, because I was taking part in the discussion of the matter. Upon discussion which took place in the House on that bill, Mr. Howland, who then was one of the representatives of the city of Toronto, contended that the clause really meant nothing, because of the words, "the assessor shall . . . value such land as though it was held for farming or gardening purposes, with such percentage added thereto as the situation of the land reasonably calls for." He said the result of that was that this was to be assessed for its fair value according to its situation, so that the section really made no change in the law, although it has led to considerable difficulty. Now, as that has been interpreted in Toronto by Judge McDougall, I understand no difficulty has arisen because he has given full meaning to those words, and in a note to the "Assessors' Guide" published by the Municipal World it is said, "Judge McDougall, in considering appeals from the Court of Revision for the City of Toronto under this section, held that the true test was the actual value of the land." So that so far as Toronto is concerned they have no present fault to find with this section as it stands, simply for the reason that it is interpreted in the way that I have described; but there are other municipalities where a different view is taken. I know in our municipality a somewhat different view is taken, and land that was laid out in blocks, in which you could not buy a block except for a pretty high price, was under this section valued as farm land and assessed at a great deal less than the owner would be willing to take for it. In one case I know lots were bought for $30,000 and then assessed under this class at $13,000. In that way there is a different interpretation upon the meaning of those words; and it seems to me that clause has been a hindrance rather than an assistance. If, as was suggested yesterday, all property is assessed at its fair value, then these last words of the clause would be given their full effect: "Such percentage added thereto as the situation of the land reasonably calls for." Then when one considers in connection with that the oath that the assessor has to take as per schedule "E." it is seen that that differs entirely from the valuation that he might place upon it under this clause or might consider that he ought to place upon it under this clause as interpreted by some of the local authorities; and therefore it seems to me that this clause, together with others that only hamper the mode of arriving at what is the fair value, should properly be eliminated from the Statute.

The CHAIRMAN: Do you suggest the repeal of the clause altogether.

Mr. MacKelcan: I think so. I think that it only creates difficulty where there need be none. If we have one uniform method of valuation of all classes of property, it seems to me it would simplify the Assessment Act very much. The complaint is made—and it is a very common remark made by laymen and also by lawyers—that the Assessment Act is so complicated that it is cumbersome, it cannot be understood, and that it is consequently unworkable, unpracticable, and so on. Well, it seems to me that it would be greatly simplified by simply taxing all property—that is, all tangible property, real and personal—at its fair value; and there you would get a rule that applies to the entire municipality.

All these complications with regard to distinction between one kind of property and another only go to make the Assessment Act unworkable instead of making it perfectly easy to act under, if we had one simple definition that applied to all classes of property.

Mr. JUSTICE MACMAHON: I suppose there would be no trouble in framing an Act that would be easily understood if you could prevent legislators from tinkering with it at every Session of the House.

Mr. MacKelcan: Of course there are gentlemen who go there under the idea that they have a mission to perform, that is, to have some change made in the Municipal or Assessment Act. It might be of advantage to some one of their constituents and of course we know that of the amendments to the Municipal Act that are brought in by private members every session, probably four-fifth are slaughtered, but still some of those that do go through might better have been left out of the Statute. No doubt some valuable amendments are suggested by private members, from their local experience or from general experience as the case may be, but many of them are introduced for special reasons and to suit special circumstances of a particular constituency from which the member was sent to the Legislature.

The CHAIRMAN: Before you pass from that, Mr. MacKelcan, what would you say with reference to this clause and the position of those three gentlemen we heard yesterday from the country?

Mr. MACKELCAN: Well, I was very much impressed with that, and I must say that their land being occupied and used for farming purposes, and being of no greater value than the land outside the limits of the municipality, if those words were used that we have suggested, it would only be assessed at its fair value as a farm, and the value proportionate to that or the same as that of the land immediately outside of the municipality, providing the assessor in the township municipality was assessing land according to the law, on its fair value, and not at a low value for the purpose of giving his township a privilege over other townships in the county assessment. There is a difficulty with regard to township assessment that the local assessors are tempted to put down the taxation in order that their people shall have a smaller proportion of the county taxes to pay.

The CHAIRMAN: What ground is there for that temptation having regard to the equalization clause?

Mr. MACKELCAN: It is very seldom that clause is fought. They have an advantage; they began at a lower plane, they are not likely to go so high as if they began at a higher plane and the others have to be lifted from the lower one. Of course, naturally they do endeavour to get all the privileges they can in the preliminary position before the equalization takes place, but it seems to me that that must be the reason why the township assessments are often lower than they should be, and it is difficult to understand how the assessor can take the oath that he does sometimes with regard to township assessment, because if he were called upon as valuator for a loan company to put an appraisement for sale he would probably put a much higher value than he puts down in the assessment, and he puts down a low value in the assessment roll because all the other land is assessed in the same way.

Mr. JUSTICE MACMAHON: Are there not a great many market gardens within the city of Toronto? I suppose there are some within the limits of Hamilton.

Mr. MACKELCAN: Then they ought to be assessed simply at a farm value.

Mr JUSTICE MACMAHON: Simply as farm land?

Mr. MACKELCAN: Simply for the purposes for which they are used Of course, you cannot altogether ignore the fact that the farm land within the boundaries of the city of Toronto would be much more valuable than farm land 100 miles away. That element must to some extent govern the valuation placed upon the land by the assessor.

Mr. WILKIE: How has this section been abused?

Mr MACKELCAN: Well, it has only been in some cases Land that had been laid out in lots, say two or three acres of land in a city where the lots are held at a good price, and which you could not buy for anything less than a fair price according to the location, the assessments have been reduced very largely upon an appeal on the ground that they should be assessed as farm lands. I do not think there is ground for that appeal under the wording of the statute, but still it prevails, and a valuation lower than otherwise placed upon it has been in some instances placed upon it by the Court of Revision or the County Judge.

Mr. WILKIE: That being the case, the complaint of those three farmers that were here yesterday was groundless?

Mr. MACKELCAN: I think if the Assessment Act were properly interpreted, and especially if we had it in that simple form, if their land was simply assessed at its farm value, it would not be assessed at more than what it was worth for the purposes for which it was used, for its situation did not enhance its value at all

The CHAIRMAN: But even if the assessment had been accurate as to value, still do they not suffer a grievance in the rate? The village rate is higher than the township rate necessarily. Do they not suffer a grievance there, even if the assessment is correct? They get no benefit, according to your own argument, from light or other advantages from the corporation of the village.

Mr. MACKELCAN: Oh, no doubt it is a great hardship that some classes of property of that kind should bear taxation. We have an instance in the city of Hamilton. There is a portion of the land belonging to our city that is above the top of the mountain and it does not participate in the benefits of the city improvements, but it has to pay the same rate of taxation, although the assessment is lower. These gentlemen yesterday——

THE CHAIRMAN: They have compensation in the landscape.

Mr. MACKELCAN: Well, yes, they have. That the gentlemen here yesterday did not have, but those gentlemen did not complain of the assessment; it was only the rate of taxation. They said they could not say anything against the assessment; that was all right; only they complained, as they pointed out to you, that they had to pay a share of the expenditure for purposes for which they derived no benefit. That would appear to be more a matter within the scope of the Municipal Act than the Assessment Act, but there certainly is an injustice in many instances in persons owning outlying property being compelled to contribute.

Mr. JUSTICE MACMAHON: That clause that was in the Assessment Act some fifteen years ago, where the gardens were exempted to some extent, was afterwards repealed, was it?

Mr. MACKELCAN: No, that follows the one I was reading. It is section 30. "(1) Where ground is not held for the purposes of sale, but is *bona fide* enclosed and used in connection with a residence or building as a paddock, park, lawn, garden or pleasure ground, it shall be assessed therewith, at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages, unless by by-law the council requires the same to be assessed like other ground." I think in most municipalities the council has passed a by-law requiring lands of this kind to be assessed like other ground, so as to place the whole of the lands in the municipality on the same footing.

The CHAIRMAN: If a man took down his fence the clause would not apply at all?

Mr. MACKELCAN: Well, I do not know. Practically it is a dead letter for the reason that the municipalities have availed themselves of the power to pass by-laws. They have passed one in Toronto, and one in Hamilton, so far as I know, requiring property of this kind to be assessed like other ground. Then with regard to section 29, I would call the attention of the Commissioners to sub-section 15 of section 71 of the Assessment Act, which is not altogether consistent with section 29 where, referring to the Court of Revision, it says that the Court may, in determining the value at which similar land in the vicinity is assessed. I may say that this is a very valuable clause as it stands, for the reason that the object of assessment is not so much to get at the actual value of the property as to get a fair valuation upon a like basis throughout the municipality so that all persons shall bear their fair share of their taxation.

The CHAIRMAN: Equality?

Mr. MACKELCAN: Equality, yes, so far as possible, and this enables the Court to to bring about that result. Sometimes there are some men, as some of the Commissioners may knew, who are chronic kickers. They appeal every year and against every assessment, and perhaps they might get the advantage over their more peaceable neighbors who have allowed their assessment to pass along. Say the land on a street is valued as $20 a foot for several blocks and one man says: "Well, I do not think I ought to be assessed for more than $15 a foot, that land is only worth about $15 a foot." and the Court says: "Here you find everybody else on the street is assessed for $20 a foot, and they none of them complain, and we will assess your land with reference to the value in which land in the vicinity is assessed;" so that in this way this man is not able to take advantage of his neighbours; the Court are able to do justice to the occupants or owners of land on the street as a whole. But that would also operate in considering any adjustment of vacant land, it seems to me.

The CHAIRMAN: It is the Court of Revision that is there spoken of;

Mr. MACKELCAN: Yes.

The CHAIRMAN: You think that is a valuable provision?

Mr. MACKELCAN: I think it is a very useful clause, and it serves to bring about the result that the Assessment Act is intended to aim at, that is, equality in the assessment of property.

The CHAIRMAN: The argument is this, that if all the adjacent owners are content with the assessment that is good evidence of the value?

Mr. MACKELCAN: Yes, and if all are assessed alike then no one has ground to complain. If property is assessed at a high value throughout the whole city, but uniformly so, nobody has the ground to complain, because the rate of taxation would be less; and if it

is assessed at a low valuation, then a larger rate on the dollar is necessary to raise the same amount of funds for municipal purposes.

Mr. JUSTICE MACMAHON: One way in which that was often decided in the Court of Revision, I can remember, in years gone by, was this: Under the 29th section where a man had laid out a block into building lots and he wished to reduce the assessment below what his neighbours were paying, they generally got some one to offer him a price for his land, and if he refused to take it, he was met with the offer that was made as being a fair value of the land that he got.

Mr. MACKELCAN: That ought to be a good answer; I could cite a case however, where a portion of a block of land which was a pretty large block consisting of four or five acres was needed for school purposes, and the School Board were obliged to pay a very high price per lot for those lots; but when it came to the assessment of the remainder the owner stated: "Well, that land is not saleable now; I know we were able to sell a few lots to the School Board, but there is no demand for lots in that locality just now, and we want it assessed as farm land."

Mr. JUSTICE MACMAHON: Of course that was a very good way where the man by holding on to his land was retarding the progress of the city, preventing it from going in a particular direction.

Mr. MACKELCAN: Of course it is a very fair test, and I think it is a test that the Judge ought to be guided by when the question comes before him.

The CHAIRMAN: Is it a fair test? The appellant comes before the Court of Revision and gives evidence of value, and one of the members of the Court says: "Will you take that for it?" Surely his answer is: "I do not want to sell my land at all." How is an offer of that kind of any value?

Mr. MACKELCAN: Well, it might not be?

The CHAIRMAN: How is it fair?

Mr. MACKELCAN. Of course that would negative the idea that that property is unsaleable, if an offer is made and refused.

The CHAIRMAN: It is unsaleable because the owner does not want to part with it; it is his dwelling house.

Mr. JUSTICE MACMAHON: Taken in conjunction with what the other property in the vicinity is rated at I should say it would be very good evidence. I am not speaking of a case where a man has a large number of vacant lots.

The CHAIRMAN: There may be such associations with it that he does not want to part with it.

Mr. MACKELCAN: In that case I do not know that it would come in under this clause.

Mr. JUSTICE MACMAHON: It would not if it was in the vicinity of Niagara Falls, or on the mountain of Hamilton where you have a view.

Mr. MACKELCAN: It says here: "The value of vacant land shall be that at which sales of it can be freely made." Of course if an offer is made and refused that is palpable evidence that a sale could be made at that price, and so the land—

The CHAIRMAN: Yes, if he refuses on account of price; but if he refuses because he does not want to sell, what does it amount to?

Mr. MACKELCAN: Then of course he could not claim the benefit of a clause which said that a sale could not be made.

Mr. MACPHERSON: The case you referred to where school lots were bought and a large sum paid for them, if a man were offered a certain sum for that land he could not ask for that reduction.

Mr. MACKELCAN: But they do ask for the reduction all the same.

Mr. MACPHERSON: But they are not justified in getting it.

Mr. PRATT: Your contention is that all land should be assessed under section 28?

Mr. MACKELCAN: Yes: I think this clause 29 only hampers the administration of the assessment law, if it means that notwithstanding that it is vacant land it shall be assessed with such percentage added as the situation of the land reasonably calls for, and should be assessed as section 71, sub-section 15, says.

The CHAIRMAN: If it is bona fide used for market gardening, for example, would not the fair way to assess it be that the assessment should bear some relation to what it would rent for for that purpose?

Mr. MACKELCAN: Yes.

The CHAIRMAN: Otherwise, if you assess it at its full value, the result is that it cannot be let and it goes begging instead of being cultivated and made useful for the community.

Mr MACKELCAN: I quite agree that land occupied in that way for farming or market gardening should only be assessed at what is a fair price for it under the circumstances.

The CHAIRMAN: Don't you think the rent that could be got for it ought to be regarded?

Mr. MACKELCAN: Certainly, and the Court of Revision in dealing with it, if they were unhampered and were simply to place on it a fair value, they would—and if not, the Court of Appeal would—take all the surrounding circumstances into consideration and say, "In the condition and situation of that property and the purposes for which it was used, what would be a fair value to place upon it?"

Mr. PRATT: Suppose a man has four or five acres of building land, if it was in demand for building purposes?

Mr. MACKELCAN: If it was in demand for building purposes in that portion of the town, and the owner was unwilling to sell it, then he ought to pay an assessment on it at a price which would be chargeable if the land were utilized for general purposes, as other land in the vicinity was being used.

Mr. JUSTICE MACMAHON: Once land in a district can be utilized for building purposes, then the owner has always the advantage over the other property holders, and he ought to pay for it no matter how he uses the land, whether for market garden purposes or for other purposes.

The CHAIRMAN: In that case he is waiting for the unearned increment.

Mr. MACKELCAN: If the same interpretation were put upon this section by every County Judge as was put by Judge McDougall, it seems to me it would be right to leave the clause as it stands; but it seems to me it only leaves room for the argument which leads to a conclusion different from the way in which Judge McDougall has interpreted it, and the assessment law would be on a better footing if that clause were not there and simply left, "to be assessed on its fair value."

The CHAIRMAN: Does Judge McDougall's decision indicate that he thinks it of no effect at all?

Mr. MACKELCAN: Well, this is the note, "Judge McDougall in considering appeals from the Court of Revision for the city of Toronto under this section, held that the true test was the actual value of the land."

The CHAIRMAN: The clause had no effect at all?

Mr MACKELCAN: Practically that. I will say that was the argument of Mr Howland in the Legislature. He said that it was a useless clause, being qualified as it was by the words "With such percentage added thereto as the situation of the land reasonably calls for," which practically nullify the preceding portion of the section. Another subject in connection with this—and it seems to me this is the only branch of the inquiry under which this can come—it is one I think of a great deal more importance than the one I have just been speaking of, is the sale of land for taxes. That sale takes place under the Assessment Act. "The assessment of land and the improvements thereon respectively"—that is the subject being dealt with yesterday and to-day, and I take it this comes up under that. I refer to section 173. In the interest of the municipalities I contend that the municipalities should be in no worse position in regard to this claim upon land for taxes than a mortgagee of that land would be for his claim for interest upon his mortgage. The land is the subject of the assessment and taxation, and it should be the primary fund to which the municipality should be entitled to look for the payment of the taxes that are imposed upon it. I look upon the right to seize goods and chattels for taxes upon land as merely a collateral right in order to expedite the payment and bring pressure to bear upon the owner of the land to pay up his taxes; but I do not consider that there is any obligation, or should be any obligation on the part of the municipality to do that unless they deem it in their interest to do it. The officers of the municipality naturally do the very best they can to get in all the taxes every year, because the money is needed for current expenditure. Almost every municipality spends almost the entire taxation levied for the year, and some of them spend more, and the tax collector is urged on all hands to get in every dollar that he can, and he does so. But now, there are very great difficulties

arise in collecting by distress upon chattels the taxes upon land. In the first place, if there is a tenant in possession and he is not one of the persons assessed, you cannot levy upon goods and chattels. Under section 135 of the Assessment Act you can levy upon the goods and chattels of the owner. "Upon the goods and chattels wherever found, within the county in which the local municipality lies, belonging to or in possession of the person who is actually assessed for the premises and whose name appears upon the collector's roll for the year as liable therefor." Now a great many difficulties arise under that section, and especially clause 4. A man if he is a subsequent owner but is not the person assessed, is entitled to claim exemption. If he is personally assessed he is not entitled to claim exemptions if he is the owner of the property; but perhaps the goods you seize may be claimed by his wife; she says they are hers and therefore she is entitled to claim the exemptions because she is not the person assessed; or they may be claimed by some relative of the family and the relative says, "Although I cannot claim them as against the assessor yet I can claim the exemptions" For instance you go into a house and make a seizure of a piano. Well, that is probably leased or sold under a hire receipt in the name of one of the daughters of the family and she says it is in her possession; although her father is in possession of the house she is in possession of the piano just as much as she is in possession of the furniture or the things in her room. Well, you have to deal with all those questions, and under the law as it now is you have to fight that out as a preliminary before you can hold your lien on the land, and get into any number of complications in regard to rival claims to the whole property, and when you go to sell the land for taxes or make an attempt to sell they say, "There are certain goods there that you might have sold." You reply, "Well, they belong to somebody else; they were not liable for seizure." "Well, they were." Then you have got to fight out that question with the mortgagee of the land perhaps, and you have either got to enter upon that litigation in the first instance in order to make good your lien upon the land or you have got to fight it out in the end when your lien is disputed. Now, the mortgagee has no such position as that. He has power to distrain for the interest on his mortgage, but he says, "I am not compelled to seize, I can wait." Why should the municipality be compelled to seize in this way? What is the position now? Land is mortgaged; the mortgagee advances money perhaps on inadequate security and the mortgagor is unable to pay either interest or taxes; he is unfortunate in business; he falls into poor circumstances perhaps. The mortgagee goes to the collector of the taxes and says, "Here, I want you to levy on that man for the taxes on that land. I have a mortgage on it." Well, the collector ought to be able to say, "Well, Mr. So and So, if you are interested in the land then you are interested in paying the taxes; pay the taxes on it to save your security and you can sue your mortgagor, you can take proceedings under your mortgage and take possession; you can distrain for your interest if you like, or you can pay these taxes and distrain, or you can protect yourself; we don't want to get into any trouble or litigation over this; you are perfectly secure, you say—at least you have your security on the land; we have the first lien on the land also." Section 149 of the Act says, "The taxes accrued on any land shall be a special lien on such land, which lien shall have preference over any claim, privilege, lien or incumbrance of any party except the Crown and shall not require registration to preserve it." Yet under the case of Caston v. Toronto that right has been practically wiped out by judicial decision.

Mr JUSTICE MACMAHON: Oh, no.

Mr. MACKELCAN: Well, it is so claimed by mortgagees who threaten the municipalities and collectors with all sorts of dire consequences in regard to loss of taxes if they do not go and seize and distrain.

Mr JUSTICE MACMAHON: Part of the taxes had been paid in that case. They had not been credited on the land on which they had been paid, that is what the Court found.

Mr. FULLERTON: I think your Lordship is in error. There was $75 that was not paid There was part that had been paid and that portion that had been paid was credited; the balance had not been paid.

Mr. JUSTICE MACMAHON: But had not been credited on the property?

Mr. FULLERTON: Oh, no, what was paid was credited and credited properly, the holding is, although there was a dispute between the man who paid it and the collector.

Mr. JUSTICE MACMAHON: And it was found against the collector's contention that he had credited on the proper land?

Mr. FULLERTON: No, my lord, the collector's contention was given full credit by Sir William Meredith in the trial of the case, and that has never been reversed in any of the Courts.

Mr. JUSTICE MACMAHON: I thought there was a decision in appeal that it was not properly credited.

Mr. FULLERTON: I have the report of the case in appeal which I think will convince your Lordship that I am correct, if you look at Mr. Justice Moss' judgment. The plaintiff raises two contentions there which he unsuccessfully raised in the Court below; and the judgment deals with his contentions and then with the law.

Mr. MACKELCAN: I only ask that municipalities should have the same freedom of action in regard to their taxes that the mortgagee has in regard to the interest on his mortgage; that is to say, they shall not be compelled to pursue those collateral remedies or otherwise lose their lien on the land. No mortgagee is compelled to do that, and I see no reason why municipalities should not occupy quite as favorable a position, because the land is never relieved from the burden of those taxes until they are paid, and the mortgagee is only interested in those taxes by reason of his being an owner of the most valuable end of the title to the land. He is practically the owner if his mortgage covers the full value of the land, and the mortgagor has a valuable equity of redemption perhaps, and yet the mortgagee insists that the municipality instead of looking for their taxes to the man who is virtually owner of the property, they follow up and prosecute the poor man who has practically lost the property. He is almost as much out of it as though he had sold it entirely. His equity of redemption is probably removed, and I have known cases of this kind: he has moved out of the property, the mortgagee has taken possession, and yet he insists that the few chattels of the mortgagor that have been removed to some smaller house he is obliged to rent shall be seized and the mortgagor pursued to the death for those taxes in order to relieve his land. Now I wish the municipality to have the right to say, "Well, these taxes are on the land; the mortgagee is the virtual owner of the land, and we will look to the land for the taxes; either he or the person to whom he will sell it will have to pay them"; and that will save a great deal of hardship, a great deal of unnecessary persecution, and a great deal of trouble as far as the municipalities are concerned. I may say I feel it myself very often. The collector gets these letters from mortgagees and he comes to me to know what he shall do, and there seems to be no alternative under the law but to prosecute those poor people; and you have to send the bailiff after the mortgagor who is already over head and ears in debt and is struggling to get along and has moved into a smaller house and taken the little furniture that he has left, and seize for these taxes in order to please this mortgagee.

The CHAIRMAN: As the law stands now is the bailiff bound to interplead when there is a claim made? Suppose the bailiff gets a warrant and he goes to distrain and he is met by claim upon the whole property by other people, what can he do then? Is he not at liberty then to return his roll, and is that not sufficient to effect a charge upon the land?

Mr. MACKELCAN: No. He would have to make the returns of the roll that there was no goods and chattels out of which the tax could be realized.

The CHAIRMAN: Very good; he finds that this is so; he has seized the goods or gone to seize the goods, and divers claims are made which appear to him to be well founded and he makes his returns and says no goods; then is the lien on the land not made effectual by that? This case, as I understand it, is merely that the roll was not properly returned.

Mr. MACKELCAN: I have a case exactly in point; that is to say the case of a seizure of a piano.

The CHAIRMAN: Surely that would be the end of it to the bailiff.

Mr. MACKELCAN: No, the mortgagee thought that piano should have been sold.

The CHAIRMAN: But then the bailiff says, "No, I went to seize it, but I would not be allowed to seize it; there was a claim made against it which appeared to me to be well founded, that is why I did not make the taxes."

Mr. MacKelcan: In this case the mortgagee says, "Well that claim was not well founded. You had a right to sell that piano and you should have sold it, and therefore I dispute liability of the land for taxes.

The Chairman: And if he can show that, then the return of the collector was wrong?

Mr. MacKelcan: The return was untrue.

The Chairman: And the lien on the land was gone?

Mr. Fullerton: Yes. In Henderson v. Toronto this point was tried by Chief Justice Armour, as to whether a claim made by a wife was or was not a proper claim. No judgment was given on that point, the learned Judge declining to say whether the claim was good or bad, but he found against us under the decision in Caston v. Toronto. There is no decision on the point.

Mr. MacKelcan: There may be such a case as that referred to by Mr. Justice Macdennan where there is a piano in the house and that is under a hire receipt and the tax collector does not wish to litigate and says there is not enough interest in it, perhaps only thirty or forty dollars having been paid, and the interest would amount to nothing; and still they say, "You should have gone on and advertised and seen what you could have got for his interest, no matter what it was."

The Chairman: Can a bailiff sell the equity of redemption in a chattel?

Mr. Justice MacMahon: Oh, yes, now.

Mr. MacKelcan: Under sub-section 2 of section 135 he can sell "the goods and chattels of the person assessed."

The Chairman: What you say is that nothing of the kind—no neglect, no default, ought to have the effect of doing away with the charge upon the land. In Caston's case the taxes were lost altogether and became irrecoverable, if I am not mistaken.

Mr. MacKelcan: It seems to me the principle of the law is entirely reversed now; that instead of the land being the primary source for the payment of taxes upon it, the floating goods and chattels that any person assessed from time to time might have, out of which these taxes could be levied, are regarded as the fund or source from which it is the duty of the municipality to collect those taxes in the first instance, and that unless they follow out that duty to the utmost they lose their recourse against the land for the taxes.

The Chairman: You say that if a tax has properly been laid on in the first place, proper assessment, the roll properly made out and delivered to the collector, that then it ought to become a recoverable debt under any circumstances, unless barred by the statute of limitations.

Mr. MacKelcan: Yes, and that the taxes should remain a charge until they are paid. There is a great deal of reason in all that. We should occupy a higher position in that respect than the mortgagee, that is what I say.

The Chairman: The intention of the Legislature was to give you larger powers than the mortgagee.

Mr. MacKelcan: That was the intention of the Legislature, but it does not work out, and that is why we wish to have larger scope given to section 149:

> "The taxes accrued on any land shall be a special lien on such land, which lien shall have preference over any claim, privilege, lien, or incumbrance of any party, except the Crown, and shall not require registration to preserve it."

But it may be all lost by reason of our not having pursued the collateral remedies that the statute gives us.

Mr. Justice MacMahon: A municipality years ago had the same rights as a landlord had years ago as to selling the goods of third parties on the premises.

Mr. MacKelcan: Yes, but that has all been changed now.

Mr. Justice MacMahon: That has all been changed now, as regards the municipalities and the landlord.

Mr. MacKelcan: Yes; there is power given to us now to collect rent, that is in the same way as a landlord, give notice, and then often times we are enabled to collect. I know a case of this kind where we gave notice to the occupant to pay rent. He said, Oh, he was not under any rent, that the property belonged to his father and his father allowed him to occupy it. So then we made a seizure of his goods, and he claimed, "You cannot seize my goods, I am a tenant of this property, I am not the owner." He

was not liable for rent and so you could not make him pay rent, and his goods were not liable to seizure because he was only a tenant; and the old man had not anything—he had taken over the stock and goods and was carrying on the business in his own right, and the owner sat there and smoked his pipe and would not pay anything, and the son would not pay anything, and you could not get it.

The CHAIRMAN: The son was not assessed.

Mr. JUSTICE MACMAHON: He was not assessed as occupant.

Mr. MACKELCAN: No, not at that time, of course that could be rather remedied in subsequent years, but he was not assessed for the years during which these taxes were due. I will not take up any further time. My learned friend, Mr. Fullerton, is very familiar with this matter and he will now speak.

Mr. J. S FULLERTON, Q.C.: My learned friend has made the Commission so familiar with the matter that it is unnecessary for me to say very much about it. I am unable to support my learned friend in his contention as to section 29, that is, as to the assessment of vacant lands. That clause as it was brought before the Legislature was very strongly opposed by the City of Toronto, with the result that very considerable amendments and changes were made in the section, and, as my learned friend has stated, the section was very nearly thrown out even with those changes and amendments; and subsequently to that year, and I think it was two years later, an error in the clause as passed was changed by the Legislature, and the clause was again before the Legislature and the result has been in the City of Toronto—for which alone I speak—that the clause has proved one of very great flexibility and has enabled the assessors and the Court of Revision and the Judge to apply the law so that it affects, we think, reasonably and fairly, all parties in the City of Toronto.

The CHAIRMAN: You say it has been amended since 1897?

Mr. FULLERTON: It was amended in 1897. As it was originally passed it applied to two-acre blocks, and as it is changed it now applies to ten acre blocks. It enables us where lands are market garden lands to assess them as market garden lands. Where they are lands held for speculation purposes we deal with them as such; and while the clause effected quite a considerable reduction in our taxation of land as we were taxing lands at the time it was passed, it must be borne in mind that at the time it was passed we were assessing lands at about four or five times their value; that is, we supposed that all the outlying portions of the city were really ready for occupation, and our assessors and speculators and all were dealing with it in that way. So that as far as Toronto is concerned the working of that clause has been reasonably satisfactory, and as it has been administered we do not feel disposed to advocate its change. Then, as to the next paragraph, the change my learned friend speaks of, which is necessitated, we think, by Caston v. Toronto, if the Court will bear with me one moment—

The CHAIRMAN: Don't you think the language of this section 29 is very obscure and indefinite?

Mr. FULLERTON: I think possibly it might have been worded so that it would be less obscure; but the concluding words of section 29, "with such percentage added thereto as the situation of the land reasonably calls for" leaves a very large discretion in the assessor in the Court of Revision and in the Judge.

The CHAIRMAN: The last man has got the best of it.

Mr. FULLERTON: The last man has got the best of it, but in all taxation of that character it seems to me there should be a large discretion allowed. One man may have a piece of land lying in a valley that is only fit for a market garden. Another man from the sales that are taking place and the surroundings may have land that he can reasonably sell. If the assessor and the Court and Judge deal with that reasonably and properly the section is a good one. Of course we have places where that is not dealt with properly. Perhaps if our Judge was changed and one less reasonable put in his place we might find difficulties, but at present we are content to bear the ills we have in that respect. Then, as to the effect of Caston v. Toronto, the circumstances were briefly these: Caston owned a lot, say 55, and his sister owned a lot alongside, say number 53. The collector contended that when Mr Caston paid a certain sum of seventy five dollars he directed a portion to be applied on his own lot, and the balance on his sister's lot. Mr. Caston disputed that he directed anything to be paid on his sister's lot? It was, however, applied by the collector on his sister's lot, as he claims he was directed, and

the result was that on the sister's lot a certain sum was marked paid. The seventy-five dollars was enough to have paid all on Caston's lot. The collector's contention was supported by the trial Judge, and a seizure was made on Mr. Caston for taxes on his own lot which were unpaid. The trial Judge found that the taxes were due, the seizure was proper and dismissed the action. Subsequently before the Divisional Court the Divisional Court held that we had not proved that all the proper steps necessary to make the distress had been taken, and gave us leave to prove this We failed under section 135 as it then stood—section 147 now—to show that when the collector made his return for non-payment of taxes that he entered the words "non-resident" or "not sufficient property to distrain" or "instructed by council not to collect;" he simply left blank places there. We also failed to show that a duplicate account was given to the clerk by the treasurer. It was held on both these mistakes we failed, and that we could not by a second distress collect those taxes I point out to you the language of Mr. Justice Osler in regard to that, which you will find on page 462 of volume 26 of our Appeal Reports:

"I agree in the result though not without some doubt. The effect of the judgment would seem to be (I express no final opinion on the point) that there are now no further remedies open to the defendants for the recovery of the arrears of taxes."

The judgment of the Supreme Court, following the judgment of Chief Justice Burton, goes a little farther, and Mr. Justice Gwynne who delivered judgment says as follows:

"In the Court of Appeal for Ontario, Burton, C.J., gives a reason for affirming the judgment of the Divisional Court not expressed in the judgment of that Court which proceeds upon the ground that the default of the collector of 1891 in fulfilling the requirements of section 135 fatally affects all future proceedings to enforce payment of arrears, if any there be, of 1891 from the respondent, and confines the remedy of the appellants to a claim against the collector for the injury suffered by his default."

And after discussion he concludes:

"The construction put upon this section by Burton, C. J., is a true one."

I think that covers the words he has used here; I think that was the intention. The result is, assuming that what was found by the Court to be correct, that the taxes were not paid, that we are unable to destrain for them by not making the proper return, and by not making the return to the clerk of the duplicate account—the treasurer himself having kept the account and sent out the notices—we are not able to sell the land, and under Carson v. Veitch, 9 Ontario Reports, which by the way is a dictum, but a strong one, by Mr. Justice Rose, the result is these taxes are not paid and there is no remedy left for us The rest of the matter was so plainly put by Mr. MacKelcan and summed up by the Commission that all I need to do is to direct your attention to what I propose as an amendment. Section 149 reads:

"The taxes accrued on any land shall be a special lien on such land, which lien shall shall have preference over any claim, privilege, lien or incumbrance of any party except the Crown, and shall not require registration to preserve it." And I suggest these words be added, "And such lien shall not be lost or impaired by any neglect, omission or error of any officer or agent of the municipality, and shall be enforceable against the lands by action."

Mr. MacKelcan: I had drawn an amendment on the same lines as Mr. Fullerton has done. It is in clause 9 of the amendments proposed by the Ontario Municipal Association.

The concluding words are almost identical to Mr. Fullerton's amendment to section 29. Mr. Grant, the Assessment Commissioner for London, is here and would like to address the Commission.

The Chairman: We shall be glad to hear from Mr. Grant.

Mr. Stephen Grant, of London, said: Your Lordship and gentlemen of the Commission: I have read very carefully the opinions expressed by Mr. Fullerton and Mr. MacKelcan before your Commission yesterday, and I fully concur and endorse all that has been said with reference to the assessments of real estate and equitable taxation. I think the clause which reads that all property should be assessed at its fair value should cover everything, and I think no individual whether representing himself, any incorporated company, or any other company could possibly appear before your Commission and object to such a clause as that, to have equal taxation for everybody. With reference to the Single Tax question I believe there might be some use for it in a very new country were we were

starting a new town or municipality, but in cities like we have in the Province of Ontario I think it would cause quite a revolution. In the City of London we take land as the basis of taxation, and in London we think we give it fairly on buildings. I have made a rough estimate of the land in the City of London, and it will be one-third land and two-thirds buildings and personal property; so that in a town like ours where it requires eighteen million dollars to raise four hundred and fifty thousand dollars to run the municipality, then with a third of that six millon dollars, we would require seven and one half per cent taxation to run the city with the same amount. The consequence would be that it would drive all the smaller people outside the municipality to start suburbs of their own; and more than that it would prevent the larger people from having a great deal more land than they require, so it would cause a revolution in cities where the wealth is greater than the land. In reference to incorporated companies such as telephone telegraph and street railway companies, we have no personal quarrel with them whatever. We have a good service in the City of London; we use them well; we give them police protection, fire protection; light on our streets, and we water the streets; there is no danger of us using them badly, we just want them to be as citizens and pay a just portion, a just share of their taxes to the city. That is about all I have to express, and if there are any questions perhaps I could answer a few better than make a speech.

The CHAIRMAN: Have you any vacant land and garden land within the City of London?

Mr. GRANT: We have no land in the City of London that would pay any man to garden. We have no land in the City of London but what could be readily sold at the assessment; we have never had any boom in London or anything of that kind.

The CHAIRMAN: How do you assess houses?

Mr. GRANT: We have houses in the City of London that perhaps cost fifty thousand dollars to build that are only assessed at twenty-five thousand dollars. We just take them at what they possibly might sell for if they had to be turned on to the market.

The CHAIRMAN: Including the ground?

Mr. GRANT: Including the ground. If we did not take the land at it full value then comes in the Single Tax. There is no man in London holding land at a disadvantage to his neighbour, or very much advantage to himself. We have no trouble with lots in arrears or sales for taxes or anything else. They are just valued at a fair value and may be sold at such.

Mr. DOUGLAS: I would like very much, if it were proper, to ask that gentleman a question.

The CHAIRMAN: Certainly.

Mr. DOUGLASS: He says the single tax has no application in London. I would like to know if there is any man in the City of London paying his fellowman for occupying the land in London? What the Single Tax objects to is that any one man shall pay another man for occupying land. There is no objection to paying a man for furnishing buildings; there is no objection to paying a man for furnishing goods, no objection to paying a man for any services, but to say that I through the growth of a city shall be allowed to charge my fellowman one thousand dollars an acre, ten thousand dollars an acre, one hundred thousand dollars an acre, which is the utmost limit in this city, or five hundred thousand dollars an acre as they do in New York City, what we claim is that man does nothing for the support of society, he is a burden to society. Now, I want to know from Mr. Grant if there is any such case in the City of London; I have lived in London and I know Mr. Grant is not correct.

Mr. GRANT: I have nothing to add to my statement. I simply say we have no land in London that cannot be sold at its assessment. We have no person holding land in London at a disadvantage to his neighbour.

Mr. DOUGLASS: Then, there is no ground rent in the city of London—that I understand to be his statement.

Mr. GRANT: That does not follow. It is a poor place to hold a vacant lot. Every man that holds a vacant lot in the city of London—

Mr. DOUGLASS: What is the assessment of the land on Dundas and Richmond streets?

Mr. GRANT: Various prices. For instance, the Bank of Commerce has thirty four feet square. Well, it is easy to place an estimate on the land with a proper frontage and

the proper depth. I should say five hundred dollars a foot would be the proper value of that.

Mr. Douglass: That means five dollars a square foot. That means two hundred thousand dollars an acre for the value of that land.

The Chairman: What is the sequence of that?

Mr. Douglass: The sequence of that is this: land in the centre of London is worth two hundred thousand dollars per acre. If I were the owner of that land I should collect the rental of that land. I need furnish nothing whatever to society for that rental.

The Chairman: See what you have done; you have paid two hundred thousand dollars for it; you have bought it at that figure have you not?

Mr. Douglass: No.

The Chairman: The Bank of Commerce has paid that, or very near it.

Mr. Douglass: Very good; the Bank of Commerce puts up a building, and the moment the Bank of Commerce puts up a building we add the assessment of the building to the assessment of the land.

The Chairman: Yes.

Mr. Douglass: But what I claim is this, that in the growth of these great cities we can see again and again men had farms, these farms have become worth millions of dollars per acre.

The Chairman: But we are getting away from the corner lot.

Mr. Douglass: No, I am not getting away from the corner lot. We take the development of this continent. I can give you example after example.

The Chairman: But we are still getting away from the corner lot.

Mr. Douglass: Take the corner lot; the man that first owned that corner lot that settled in the city of London—

The Chairman: We have got past him long ago; that was one hundred years ago; we have got down to the Bank of Commerce who paid two hundred thousand dollars for it.

Mr. Douglass: Then the Bank of Commerce should be assessed at two hundred thousand dollars and nothing more; they should not be assessed on the building. In the centre of London it is two hundred thousand dollars an acre; if you go to Dorchester you can get it for forty dollars an acre. What we contend is that the building should not be assessed.

The Chairman: I do not see that it is a sequitur. There might be something to be said if the man who owned this corner lot got it from the government originally and kept it as a vacant lot all this time, and sold it for two hundred thousand dollars. The argument might be applicable to him, but I do not see its application to the bank which has paid two hundred thousand dollars.

Mr Douglass: All right; the Bank paid that. Now, on what are they to be assessed? The Bank takes that lot and improves it by putting up a beautiful building. Should they be assessed for improving this country?

The Chairman: Why not? They put part of their means into it.

Mr. Douglass: That value was made by the community.

The Chairman: To the bank the value has been made by their paying hard cash for it.

Mr Douglass: But why should we increase the taxes because they have erected a building?

The Chairman: Just because other people are contributing in the same way.

Mr Douglass: Why should other people be contributing?

The Chairman: That is the very question we have before us, why should they not?

Mr. Douglass: For this reason, that if I take a piece of land I clear it, I fence it—

The Chairman: That is what you told us yesterday.

Mr. Douglass: If you have patience with me I will tell you again.

The Chairman: We don't want to hear the argument twice over.

Mr. Douglass: I take these lots of land. Society comes around and adds another value; it gives all the appliances to civilization. If that becomes a city centre the value goes up still more and more—a value all made by the community.

The Chairman: That would be all very well if people did not buy and sell property.

Mr. DOUGLASS : It matters not whether they buy and sell. Why should they pay taxes for making improvements ?

The CHAIRMAN : That is the question we have to consider.

Mr JUSTICE MACMAHON : It would not be worth anything, perhaps, if there were no improvements on it.

Mr. MACPHERSON : It would compel them to make improvements if the land alone were taxed.

Mr. JUSTICE MACMAHON : Well, in a way.

The CHAIRMAN : But as long as they don't they have got to suffer for it. They are taxed.

Mr. MACPHERSON : But the mere fact of their suffering would make them make improvements.

Mr. JUSTICE MACMAHON : If they have the money.

Mr. DOUGLASS : Take in my own experience in Manitoba, some land came into my possession. I am not a speculator, but it came as a speculation. I paid taxes for years. They abolished all taxes on improvements. What did I do ? The very first settler that came along to occupy that land I sold it to him. If the taxes had been light I would have held on for a higher price.

Mr. MACKELCAN : In dealing with that question of the necessity for levying on the goods before we can hold the land responsible for the taxes I would refer the Commission to an amendment in that direction made in the Amendment of 1899, section 10. It is only partial in its application, and if it is properly applicable to the class of property mentioned in that section—

The CHAIRMAN : It is an amendment to what section ?

Mr. MACKELCAN : It is an amendment to section 135, and it is an addition at the end of sub-section 1 :

" Provided, however, that in cities and towns and any other local municipalities having power to sell lands for the non-payment of taxes no distress for the taxes upon each parcel of vacant property shall be made upon the goods or chattels of the owner in any part of the county other than upon such property, and this provision shall be retroactive so as to apply to the returns for arrears of taxes for the years 1896 and 1897."

It seems rather absurd that there should be chattels on vacant property. I think that was intended specially for the relief of a number of people in Toronto—Mr. Fullerton tells me it was—who owned vacant lots and were unable to pay taxes upon them and were likely to be driven out of house and home by reason, so that the Legislature did give that relief in those certain special cases ; but I submit that relief should extend throughout the whole Province, the same law everywhere.

The CHAIRMAN : As it stands now in some cases you must levy upon the property of the person assessed, and in other cases you may not.

Mr. MACKELCAN : In other cases you are not allowed to do it. Not only are you not obliged to do it, but you are not permitted ; so that the law is unequal in that respect, and consequently is unjust and should not remain there.

Mr. DOUGLASS : There is another matter to which I would like to call your attention. It has been my duty on some occasions to investigate the accounts of some of the municipalities, and to my great surprise I have occasionally discovered that taxes were left uncollected for years and years, and no return made of the rolls ; I think that in one case I found no return was made for some five or six years. I waited upon the collector and asked him why it was so. He told me it was always customary, and I assured him I thought he was involved in very great responsibility, and I seriously advised him to make the return at once. Of course being there for the purpose of investigation he did so, and I made no further note of the matter. In another town I found no return had been made for some six or seven or eight years.

The CHAIRMAN : Of any of the rolls ?

Mr. DOUGLASS : Of any of the rolls. There had been partial returns made—made in a strange way, made in instalments, which I think was in thorough contravention of the law.

The CHAIRMAN : How do you mean partial returns—he did not cut up the roll, did he ?"

Mr. Douglass: Yes, he cut up the roll, and made a return of some parties who were distrained on.

The Chairman: That would be clearly in contravention of the statute. The law expressly requires the roll to be returned within a limited time unless the council give further time.

Mr. Douglass: Well, the council has the option of a month, or something like that, no more, and I think it might be as well if some provision was made in the statute that some return should be made to some responsible officer either at Toronto—

The Chairman: That is the law as at present—

Mr. Douglass: Yes, but who is the officer who shall see that the return has not been made?

The Chairman: It is the duty of every member of the council to see that the law is observed.

Mr. Douglass: Unfortunately in one case I investigated I found that a number of the councillors themselves had been in arrears of taxes for years and some of them were parties who wanted the roll to be retained.

The Chairman: That is hardly before us now.

Mr. Arthur W. Roebuck, 16 Rathnelly avenue, Toronto: I think Mr. Douglas has his point, but possibly he has not made it perfectly clear just what reason there is for taxing the land and not taking the buildings, and, as we might say in a general way, wealth. Wealth is produced by a man's work, and by that very title is his and has no right to be taken either by a community or any member of it. If no member has any right to take a certain portion of a man's wealth, then neither had a collection of individuals called a community the right to take that wealth. But in the other case, land was made by the Creator for the support of his creatures here below, and by that right should be used for the community's benefit. Now, you say that possibly that would be all right in treating with the original owners of land. Well, if a government has the to tax land given to the original owners have they not the very same right to tax the land that has been sold to others?—because sale can only transfer; it cannot confer a moral title. If the land used belonged to the community in the first place, and therefore they have a right to tax it, have they not a right to tax it to its full value? This is a reform that is the most radical. It will put us all on an equal basis. It will make us all perfectly free; and there is no other reform, I don't care what it is, that will make us free; for I don't care what improvement you make in society, in morals, in production, or anything, it all more or less increases the value of land, and until that value is taken by the community we will be the slaves we are.

Mr. Beverly Jones, Toronto: Before the Commission closes I would just like to mention a point Mr. Douglass mentioned arising out of this amendment which Mr. Fullerton has proposed. We find as conveyancers that these municipal officers are very negligent in their duties, and we find frequently that after we have passed titles of property the municipalities come back upon us and make us pay taxes where the municipal officers have neglected to make distress upon properties and collected them where they ought to have been collected. Well, now, of course these gentlemen here are looking after the interests of the citizens—

The Chairman: You are speaking of taxes which have accrued after the mortgages have been put on.

Mr. Jones: After the mortgage has been paid, and also accrued while we are passing title generally. It is difficult in some municipalities to get at the taxes which are now due at the present time—most difficult. These municipalities enlarge the time from time to time for the collectors making their returns. I think it is the 15th or the 1st May every year that they are bound to make their returns, and they don't do it, and the municipalities have power to make enlargements from time to time, and time goes on and even in passing titles it is difficult to get at the taxes that are due, but it is still worse afterwards where the mortgagors happen to fall into arrears and where the mortgagor happens to be a friend of the collector and is likely to lose his properties, then the collectors are very blind indeed and they don't take any precautions whatever to collect the taxes, knowing that they can fall back upon the lands. Now, I don't think it is very desirable to relieve these officers and say they can neglect as much as they please for years and years, and that no matter what negligence they are guilty of they may

ultimately come back on the land, and have a lien for it It seems to me we don't want to increase the facilities they have for neglecting their duty. They are able to do so now under the present law quite sufficiently I noticed the other day in a paper the way in which amendments slip into the Act. That clause in the Act about notice that had to be given within six days or a week of an accident is pretty hard on people, and that was slipped in by a solicitor for some of the municipalities here, and it is found to work very hard indeed. A person falls down on the sidewalk and breaks a leg and goes to the hospital for three months and knows nothing about the law and finally is brought up with this turn that when the action is brought he had not given notice.

Mr. MacKelcan : They know a good deal more about the law in our municipality than they do in yours, for everybody gives notice. I will just answer Mr. Jones in reference to his complaint of the non-collection of taxes as far as it bears hardly upon mortgagees. I don't see why mortgagees should not make the same rule in regard to having their mortgagors pay their taxes that they have in regard to premiums on policies of insurance on property covered by their mortgages. They insist that the mortgagor shall bring in a renewal receipt, or if he does not do so they will see that it is paid and add it to the mortgage. They can do precisely the same thing in regard to the mortgage, treat that the same way.

Mr. Jones : How much do you suppose that would cost us a year ?

Mr. MacKelcan : Only correspondence ; postage is cheap now.

Mr. Jones : It would cost us about three thousand dollars.

The Chairman : Does anyone else desire to be heard ?

Mr. Fullerton : I would add just one word in regard to what Mr. Jones has said, if I followed him correctly. Taxes are passed by solicitors and not ascertained, and for that reason mortgage companies sometimes lose. The result of that argument is this, that because solicitors don't fully discharge their duty, and require the man who is making a mortgage to show that his taxes are paid, to get rid of that want of care on their part, the want of care of somebody else, must be specially punished by the loss of all claim. I submit it is scarcely reasonable.

Mr. Jones : I don't charge that at all.

Mr. Fullerton : I say that is the result.

Mr. Jones : I would not say that, but we have the difficulty of getting at the taxes in the first place ; titles are delayed, and all sorts of trouble of that sort, and perhaps we have to pass them on chances, take a declaration or something from the mortgagor that he has paid the taxes, and it may not be true, and all that—all arising from the negligence of the officers. All I say is this, that the municipality ought to be protected, but I do not think that facilities ought to be offered officials to neglect their duty, and then say that no matter how they neglect their duty they can come back on the land for it.

The Chairman : Should it go so far as to say that the taxes should be lost altogether ?

Mr. Jones : I do not think I would.

The Chairman : That is what is complained of.

Mr. Jones : I know it is in this particular case. They take a particular case and argue out a general principle.

Mr. Fullerton : I could give fifty cases that will apply. I confined myself to one case, one is as good as fifty. Love v. Webster is another, 26 Ontario Reports 453 ; Dyer v. Trenton, 24 Ont. 303 ; 21 App. 379 is another.

The Chairman : That was a fault before the taxes were properly put on.

Mr. Fullerton : Yes ; Love v. Webster, though, is not a case of that kind. Love v. Webster was a neglect of a clause in another section.

Mr. Justice MacMahon : Section 153.

The Chairman : You don't find fault with the existing proceedings for laying a tax on ?

Mr. Fullerton : Not at present.

The Chairman : I believe the Librarian, Mr. Pardoe, who has given a great deal of attention to this subject of taxation, would like to present his views before us.

Mr. Avern Pardoe : With reference to the assessment of value I think the law should be amended so that the assessor should be bound to take notice of the values as they appear by tax sales and mortgage sales. At present there are some municipalities

which sell the same land year after year to some extent fifteen or twenty times, and yet the assessment is kept up about twenty times what the value of the property is.

The CHAIRMAN: You are referring now to what used to be called wild lands?

Mr. PARDOE: Wild lands, and lands that are left stranded after a boom. The same thing has occurred here in Toronto in the suburbs—what was formerly known as wild lands. A property came into my hands in a real estate deal in the county of Simcoe, and I found on looking into it that it had been sold for taxes fifteen times; and, of course, when property gets to a tax sale the amount charged against it is usually about five per cent. on the assessment, that is, it is two years' taxes and the expenses, and yet the assessment was kept up at the same old rate all the time I find that common.

The CHAIRMAN: So it had been sold every two years for thirty years, or something like that?

Mr PARDOE: Yes, probably every two or three years. A purchaser would buy the same as I did, pay the taxes, once or twice, without knowing about the value, and then he would find it was worth nothing—that somebody had stolen all the cordwood off it—and let it go. The effect of that is that they bring a property to sale oftener than they would if they had to take notice of the values as realized in tax and mortgage sales; and it is practically just the same in Toronto, and in such suburbs as were afflicted with the real estate boom. Another point about tax sales is that the manner in which they are advertised is not fair to non-resident owners. Section 176 provides that they shall be advertised four weeks in the *Ontario Gazette* and for thirteen weeks in some paper published in the county, and the first insertion is to be more than ninety-one days before the sale. The object of putting it into the *Ontario Gazette* is that a non-resident can have some certitude as to some place where he will find his property being sold. If he lives in England you can see the position he is placed in. Some people lately have begun to advertise their property in the four weeks preceding the sale in the *Gazette*, whereas the plain intention of the law was that it should be ninety one days ahead, only the exact wording of the law is that that only applies to the local paper. The first advertisement in the *Gazette* should also be ninety-one days before the sale. Nearly all the municipalities do it that way, but some of them don't.

The CHAIRMAN: What change would you suggest in regard to advertising?

Mr. PARDOE: It would be in section 179: it says that the day of sale shall be more than ninety-one days after the first publication. That should be, "after the first publication in the *Ontario Gazette*," because the thirteen weeks provision will make it safe with the others. I know a case where a man lost his property through that very thing. Then, I wanted to draw the attention of the Commission to the taxing of summer cottages. Section 30, clause 2, applies to it at present. That was an amendment providing that where a summer cottage was on an island smaller than ten acres, and where no statute labour had been done there should be no statute labour charged. Well, that works very great injustice in some places where there is an island much larger than ten acres, but has no more available site than one that has no statute labour. I know some islands up the lakes of eighty acres that have only one site available and statute labour is charged against them, and there is no labour or no roads.

The CHAIRMAN: Do not the owners of these cottages benefit by the improvement of the roads for the country people?

Mr. PARDOE: I think most of them never touch the mainland at all. Most of the summer cottagers never go ashore at all, they are not benefited at all by the roads on the mainland.

The CHAIRMAN: Are not these roads, however, important in providing supplies and all that for the summer cottagers?

Mr. PARDOE: There is a discrimination between the ten acre island and the one that is larger that is not fair at all, I think. I once owned an island of eighty acres there which had to pay statute labour, but there were a great many islands very much more valuable of only two or three acres each that did not have to pay.

The CHAIRMAN: That is more valuable by reason of improvements?

Mr. PARDOE: No, more valuable intrinsically Sometimes the larger islands are not more valuable than the small ones, sometimes even worse because there is greater danger from fire. Then in the assessment of improvements in summer cottages—and it applies to summer hotels too—municipalities are permitted to allow a rebate for vacancies

of property, and here in Toronto it is allowed, but the municipality is not obliged to allow that, and even if the country municipality where there was a summer resort were allowed to do that it would be a mockery to a man because he would have to spend two or three days going there.

The CHAIRMAN: What section do you refer to now?

Mr. PARDOE: That is section 74. They go before the Court of Revision with or without notice.

The CHAIRMAN: I have not quite apprehended your objection.

Mr. PARDOE: The municipality can allow to a property owner that rebate of the taxes in respect of the vacancy, and here in Toronto they do allow liberally. For a vacancy exceeding three months they allow nearly the whole of the taxes. Now, I want to see the law changed so that the summer cottage shall get some allowance in respect to a vacancy. It is occupied for only three months of the year as a rule. But it would not do to allow it in that form, for it is necessary for the owner to go before the Court of Revision to do it, and that involves a journey of some hundreds of miles and a loss of three or four days probably, and I think it should be done in the assessment, that is, that the summer cottage should be assessed at only a quarter for the value of the improvements. Now, I know most about the Township of Medora and Wood in Lake Rosseau, where I have been summering myself. That is a township that has some hundreds of summer cottages in it, and as a general thing they are assessed too high. A property owner up there spoke to me a few days ago; he had recently put up a cottage there and his taxes came to thirty dollars, and on the mainland close to him there was one school kept up at a cost of two hundred and fifty dollars a year at which there was only one pupil, that is, they are taxing the summer cottages and keeping up unnecessary schools with them. Now, it is not fair to assess the summer cottages for the school taxes anyhow, but I think the best way of getting at the unfairness would be to provide it should only be assessed for one quarter the value.

Mr. FULLERTON: That would not apply to cities.

Mr. PARDOE: Well, they are usually occupied for more than three months near the cities.

Mr. FULLERTON: If you don't make it applicable to Toronto Island that is all right.

Mr. PARDOE: I don't know about Toronto Island; that will come under the head of vacancies.

The CHAIRMAN: The principle of the rebate which is given is that the landlord has tried to get a tenant for his house and perhaps it has remained vacant for a whole year or part of a year and out of consideration for his loss there is an abatement made in his taxes? That principle is not applicable to summer cottages, is it?

Mr. PARDOE: No.

The CHAIRMAN: Summer cottages are a luxury.

Mr. PARDOE: Yes, certainly; One would think that the officers of municipalities would settle that question, that they would not want to actually discourage rich people in going to build cottages there.

The CHAIRMAN: Oh, it does not discourage them.

Mr. PARDOE: One would think that would be enough, but I know a case where it is not. A summer resort benefits some taxpayers but not all of them, and those who are not benefited get jealous of the other ones, and they want to put all taxes up for all they are worth.

The CHAIRMAN: Is there any other subject on which you would like to address the Commission?

Mr. PARDOE: Failing in getting the assessment reduced like that I think there should be some provision in the law whereby a township like that should be made to spend the money in providing sanitary inspection and other protection for the people. At present they just simply collect the taxes and do absolutely nothing.

The CHAIRMAN: Don't they have use for all the taxes they raise?

Mr. PARDOE: Yes, they spend them in unnecessary schools probably. There are other schools than the one I mentioned within easy reach, and not at all burdened with pupils. I believe there are several schools in that township where they have only three or four pupils.

The CHAIRMAN: I suppose they have to contribute the largest part of that expense themselves?

Mr. PARDOE: Only their incomplete end of the assessment themselves.

The CHAIRMAN: Still it means a very large contribution by themselves. Although they tax summer cottages thirty dollars, part of it is for school taxes. It means that they themselves are contributing a very large sum necessarily for maintaining the school-master and to build a school house and all that.

Mr. PARDOE: Yes, but in that same neighborhood close by while, probably in that same school section, though I am not sure, there will be forty or fifty summer cottages and on the mainland assessable for a school there would be two or three farms. It is altogether an unfair thing that they should take all that money.

The CHAIRMAN: Do you suggest that they have availed themselves of the presence of thirty or forty summer cottages to provide a school house for the use of two or three pupils?

Mr. PARDOE: Yes.

The CHAIRMAN: Have you formed any opinion on the general question of assessing improvements or confining the assessments to the land value?

Mr. PARDOE: I have thought a great deal about that. I do not think that would work at all. I think if you attempt to assess the land value you would find such an immense difficulty in deciding what was an improvement and what was not that after you were to whittle down the improvements you would find the land value was what it was originally sold for by the Crown—about a dollar an acre.

The CHAIRMAN: You don't favour a distinction like that?

Mr. PARDOE: I think it would be absolutely unworkable.

Mr. FULLERTON: I think any change in the assessment in regard to summer cottages should be carefully prevented from applying to an island like the island of the City of Toronto. It is very different from persons going back to the country to find a summer resort. Here on the Island the cottages rent quickly for the three months, and they get as good a rental for a house as for houses that rent in the city for the entire year, and for that reason I submit it should not apply to Islands that are in connection with cities.

The CHAIRMAN: You think the abatement ought not to apply to such cases.

Mr FULLERTON: No.

The CHAIRMAN: Does the clause which enables the municipality to abate the taxes where there has been a vacancy for part of the year apply to Toronto Island houses?

Mr. FULLERTON: The Commissioner tells me that where they are built for renting on the Island and have not been rented there has been an abatement, but where they have been rented for three months there has been no abatement.

The CHAIRMAN: And no application for such abatement?

Mr. FULLERTON: No

Mr. MACKELCAN: In reference to the expense of advertising sales for taxes I would call the attention of the Commission to an amendment of the Assessment Act in 1898, c. 25, section 4, amending section 177.

The CHAIRMAN: What do you say as to that?

Mr. MACKELCAN: I only mention that point as it was alluded to by Mr. Pardoe; he spoke of the great expense incurred in advertising. So far as our cities are concerned that has been reduced.

The CHAIRMAN: It is still published in extenso in the Gazette?

Mr. MACKELCAN: Yes, that is only for four insertions. Of course there is a year to redeem with an additional payment of ten per cent. and the expenses. I would very much like the Commission to ask the Court of Revision of the City of Toronto (Mr. Proctor) his opinion about the proposed amendment to substitute the words "fair value" for all the difficult technical modes that have been suggested for arriving at the conclusion.

Mr. J. A. PROCTOR, The Official Arbitrator, Toronto: In regard to that I would just say to to the Board I have always found in my experience in dealing that the language "in payment of a debt of a solvent debtor" has been frequently construed, even by judicial minds, as though it must necessarily imply something of the character of an insolvent estate, and they have been always inclined to make reductions along that line. A person gets using the word "solvent debtor" and it is usually really transposed to mean "insolvent debtor," and it is worked out along that line. That is to my mind open to very serious

objections in arriving at a solution as to what is a true value. I have thought over that part of it, and I think the wisest conclusion to come to would be to make the assessment on a fair value of the property, then throw upon the municipalities and the people who are administering the law the wisdom of selecting men who would know what is the true value. To give a definition and expect people to interpret it, that definition is interpreted according as the mind of the man colours it; but when you say the property is to be assessed at its fair value—considering by that its productiveness and any other circumstances that would affect its value—its saleability would be one, and the uses to which it could be put would be another, the surroundings and productive value would be another, that might be taken into consideration in fixing its value—all these things taken together in the hands of the men who are in the different municipalities would lead them to determine what was the true value of the property, what it ought to be assessed for; because you must remember that the assessors in fixing the value are supposed to be assessing value all upon an equal basis, and I have known a great difficulty in that respect. One of the greatest objections to the Act is in trying to equalize the assessment. We find one man's property assessed for ten thousand dollars and another man's alongside that is worth fifteen thousand dollars assessed for ten thousand dollars, and the difficulty we have is in arriving at what would be a fair and equitable value to place upon each property owner, and we find no difficulty in property owners if they feel they are assessed fairly, even if the burden of taxation is heavier, if they feel that their property is assessed at a fair valuation in comparison with their neighbours they will bear the burden complacently even though it may be very heavy to bear. So that it is of the highest importance that some system should be adopted that would be universally applicable in obtaining a valuation; but where you give a technical description of how a valuation is to be arrived at, and then men to determine that, you find that is as various as a crazy quilt, one man has one idea and another has another in working it out. My idea is that the language is not an apt way of expressing what was intended to be done; it leads to confusion; one man takes one view of it and another another. I think in this memorandum that Mr. MacKelcan has made, the suggestion to assess property at its fair value throws the onus of determining what it really is, and that is a substantial basis on which it must go, because every municipality has its own basis of value.

Mr. Justice MacMahon: I think it was a very unfortunate expression that crept into the clause.

Mr, Proctor: It seems to have worked out very unfortunately; it seems to have given the idea of something of the insolvency of the party—that the property must be sold at a sacrifice. We have had cases here where the personal property of merchants has gone before the Judge for consideration and he has felt it incumbent to take off twenty-five or thirty per cent. of the valuation, when the language of the Act is that all should be assessed at its fair value as if taken in payment of a debt from a solvent debtor. That means that the debtor may pay it in money or in goods; and no man that had goods on his shelves would give them away for less than they cost him in payment of a debt; he is supposed to be a solvent debtor. He pays for it in goods or in money, and if he does not get a profit on his goods he would probably hold the goods and pay you in money.

The Chairman: Do you want to use the word "fair?"

Mr. Proctor: You might leave that out, because that would be really what would be determined. "Fair" is really an adjective qualifying value. Say its value, without "fair" or "unfair".

The Chairman: Then you are against the use of the word "fair"?

Mr. Proctor: No, that qualifying word shows you are anxious to get at the fair value.

The Chairman: Still different people might have different opinions as to what is fair.

Mr. Proctor: Yes, that is true.

Mr. Justice MacMahon: Negligence is not made greater negligence by calling it "gross".

Mr. Proctor: No.

Mr. MacKelcan: There is a judicial expression to the contrary.

The CHAIRMAN: An assessment would be fair even although it was not the value of the land supposing it was equal all over the region. That would be one fair value for assessment.

Mr. MACKELCAN: It seems to me that the use of the word "fair" in this particular instance is to a certain extent a guide, for the valuation has to be fair in regard to the surrounding circumstances under which it is made, and as regards the valuation of other property in the neighbourhood.

Mr. Justice MACMAHON: In that locality or in the whole municipality?

Mr MACKELCAN: Well, I suppose in the whole municipality would be the true standard.

Mr. Justice MACMAHON: But would not that be too wide? Take the case of the improvements made down at the Don recently; the value of land down there until factories were put up the last few years was very small; the rentals were small.

Mr. PROCTOR: The assessment law provides in fixing assessments which is, of course, what you are endeavouring to get at—that the assessments of the surrounding property must be taken into consideration; that is another clause of the Act.

Mr. MACMAHON: That is the way to reach a fair value.

Mr. PROCTOR: Yes, and equalize it.

The CHAIRMAN: That is when you have got before the Court of Revision. What is the assessor to do?

Mr. PROCTOR: I presume the assessor is bound by that, because when he goes to make his assessment he is not to assess one man high and the other low, but he is to equalize the assessment, and in arriving at the assessment either by the Court of Revision or assessors you take into consideration surrounding value, you assess the value of the surrounding property, so that the idea is to place the burden as far as possibly equally on the shoulders of everybody in proportion to the value of the property.

Mr. DOUGLASS: I must say one word with regard to the statement of Mr. Pardoe, who said it would be impossible to assess the value of the land alone. In Manitoba for ten years they have assessed all farms and market gardens on the value of the land alone. In speaking with parties there I find the system was simplicity itself.

The CHAIRMAN: We know what it is; we have the assessment law.

Mr. DOUGLASS: Yes; but I was telling the experience there. He says it is impossible to do it. I want to point out it has been done. In this Province, in this city, the assessors go around and value the land, and then they value the improvements. In New Zealand for some years they have carried on a system of assessment in which they pay no attention to the value of improvements; they assess the land alone. In New South Wales for some years they have carried on a system of taxation in assessing the value of the land alone. It has been done, it is continually done. So that when Mr. Pardoe says it cannot be done I do not understand the meaning of his expression. Another matter: sometime ago I went around the towns of this province making inquiries respecting taxation, and I found very great injustice in this respect. Amendments were made some years ago whereby a man holding a certain amount of land could have it assessed as farm land. I will give one or two instances. A man in Oakville owned one and a quarter acres of land on which he built. The assessment was about $1,200. He then bought 13¾ acres, making a total of 15 acres, for summer lots, which were assessed for $700, making a total assessment of $1,900. "Now," he says, "I have twice five acres of land; therefore that ought to be assessed only as farm land." His assessment then was reduced to somewhere less than $900, less than the original assessment. A man near by who had less than five acres of land, no better situated, was assessed a great deal more than the man who had 15 acres of land. That is only one out of a great many samples I came across of the outrageous way in which that law works.

Mr. WM. FREELAND read the following paper in regard to the assessment and taxation of water lots:

"With regard to the assessment and taxation of water lot property, wharves and other buildings and improvements on water lot property, there is a large part of the general expenditure of the taxes, which other properties receive, but which by reason of the nature and position of water lot property is not and cannot be expended for their benefit. These properties as a rule are merely connected with the land to a small degree, the bulk of their extent being projected out into water without streets and thorough-

fares, and the facilities and advantages which inland properties derive therefrom, and although within the bounds of the municipality the business conducted on the water front and wharves is subject in addition to the payment of harbour dues and tolls and other restrictions and regulations of the harbour.

"At present these properties are assessed at their full value, and taxes are collected thereon at the same rate as other properties, the municipality thus making a clear profit out of them without adequate return for the moneys collected.

"In regard to wharves and other water lot properties, their business is dead during six months of the year of the winter season, when the harbours, rivers and canals are frozen up.

"The Assessment Act should provide that in assessing such properties a reduction should be made in the assessed value in view of the peculiar disadvantages such premises are under by reason of their not being such that they do or can receive the full benefit of the expenditure of the tax in proportion to what other properties enjoy."

I may say that we have an Esplanade Association which meets from time to time and discontinues when there is nothing special before us, and this point has been brought up on several occasions, and they feel that they are under disadvantages and that the law is hardly fair to them, that they should be assessed as the paper says to the full value without receiving from the nature of the case an adequate return of expenditure of the taxes on their premises.

Mr. FULLERTON: I would like to say a word in regard to that. I should rather think the case that has been put by Mr. Freeland instead of being a hardship shows that the class of people he represents have been peculiarly advantaged, that they have the use of the water road and they also have for their lands the use of the road which leads into the city; and while I would not put my opinion against Mr. Freeland's I submit that it is well known that water lots are used largely for the double purpose of carrying in by navigation and spreading from that point by road, or collecting by roads and sending out by navigation, produce of such a character that the use of the highways would be more affected than in the case of other lots. For instance, take the Elias Rogers' lot, hundreds of thousands of tons of coal—I think I am within the limit—thousands of tons of coal at any rate, are brought in and from there distributed—a much larger traffic than from other lots. Take the Gooderham lots: large quantities of grain are brought in, or were brought in until recently, because the navigation is rather closed against them. The J. B. Smith lot when it was on the front was used for the importation of lumber and so on. All the lots you find there, the traffic that comes in and the traffic that goes through is almost heavier than any other lot you can find in the city. The result is that the roads are more used and are of more advantage to them than roads to other lots. Having the navigation way does not detract from them. The Assessment Commissioner tells me he knows of no case where a hardship has been complained of, and I submit a change should not be made in the assessment of those lots for the reasons that have been given.

The CHAIRMAN: Have you anything to say in reply to that?

Mr. FREELAND: The solicitor has not answered the objection that the city draws a profit out of these lots by taxation to the same extent as other properties that get a profit over and above, and more than they would if those lots were up town or inland.

Mr. FULLERTON: Well, I suppose these lots themselves in the market, ascertain their own value; the price they are held at, the price they are bought and sold at, gives the reasonable value to the people that hold them, the amount they are assessed at. If Mr. Freeland says the claim to the use of the roads is not a correct one that is a matter that is open to us all, and we all know whether that is so or not.

The CHAIRMAN: The discussion of this subject is closed with the exception of the request that was made yesterday morning by Mr. Kingsmill on behalf of certain corporations who desired to have an opportunity of discussing the subject in its bearing upon their particular trade and occupation.

Mr. FREELAND: In the case of Rogers doing a large coal business the solicitor will remember the statement that he has to pay large harbour dues on every ton of coal that he puts in.

Commission adjourned at 1.15 p.m. to 10.30 p.m to-morrow.

THIRD DAY. THURSDAY, NOV. 15TH, 1900.

Commission met at 10.30 a.m.
All Commissioners present except Mr. Butler.

Communications containing suggestions for the Commission were laid before it from the following persons :

(1) His Honour Judge McWatt, a letter to the Attorney General respecting the assessment of oil lands.

(2) G. W. Papps and Alexander Poe, memoranda for the Commissioners advocating assessment of land only and exemption of personal property.

(3) The Secretary of the Board of Trade, Ottawa, a letter recommending (1) the land to be assessed at full value fairly and fully established, and (2) that mercantile stocks in trade be assessed on the basis of a percentage (say 7½ per cent., or whatever may be considered a just figure) on the rental value of the buildings or premises occupied.

(4) The general committee of the Board of Trade, a report respecting the assessment of land and the improvements thereon.

(5) George S. Jarvis, Town Clerk, Cornwall, a letter containing various recommendations for amendment of the Assessment Act.

The CHAIRMAN : The subject for consideration to-day by the Commission is subject No. 2—The most equitable method of assessing the stock in trade and other property of merchants, mercantile firms and mercantile corporations. I understand that the Board of Trade of Toronto and the Board of Trade of Hamilton are represented here to-day, and perhaps it would be convenient to hear those bodies or their representatives.

Mr. A. E. KEMP, M.P., President of the Board of Trade : I understand the Municipal Association is represented here and we would prefer to hear their views first.

The CHAIRMAN ; Whatever is considered most convenient.

Mr. MACKELCAN : I would prefer hearing the views of those gentlemen who propose asking changes in the law

The CHAIRMAN : You represent the Municipal Association, Mr. MacKelcan ?

Mr. MACKELCAN : Yes.

The CHAIRMAN : You desire to address the Commission at some time or other on the subject ?

Mr. MACKELCAN : At some time.

Mr. J. D. ALLAN : It seems to me that in all fairness the representatives of the Municipal Association should address this meeting first. We as representing the mercantile interests would like to understand something of the position that Association proposes to take before your honorable body, and we think it only fair that they present their views.

Mr. MACKELCAN : I have no objection if it is desired, although I would prefer the other course.

The CHAIRMAN : Very well, we will hear you, Mr. MacKelcan. I understand you represent the Association the members of which represent all the different sections of the country towns and cities, and you are considering how the municipal law may be improved

Mr. MACKELCAN : That is the object of the Association—the Ontario Municipal Association. Under the present law all property in this Province shall be liable to taxation—that is section 7 of the Assessment Act—subject to the following exemptions—and there follow then 29 clauses under which various classes of property are declared to be exempt from taxation. The view of the Association as expressed in the resolution passed at their last meeting and also at their previous meetings is that all real and personal pro-

perty should be assessed at its fair value. The reasons for coming to that conclusion were gone into pretty fully during the last two days upon arguments that have taken place before the Commission with respect to the assessment of real estate. The argument that would apply to the assessment of improvements upon real estate by reason of the advantage that they derived from the expenditure of moneys raised from municipal taxation would also apply to the assessment of personal property. It seems to me that all visible tangible personal property that is subject to protection by municipal expenditure for water supply, fire protection, police protection and other general municipal improvements that are undertaken for the advantage and accomodation of those carrying on business—all that property should contribute its fair share towards these municipal expenditures. At present it is all supposed to be liable to taxation, subject, however, to an exemption which practically destroys altogether the equality of assessment and taxation, and that is sub-section 24 of sec. 7 of the Assessment Act, which exempts so much of the personal property of any person as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate or are unpaid on account of the purchase money therefor. The effect of that is entirely to place at a disadvantage the man who carries on business on sound business principles. The man who buys his stock and pays for it is assessed for the full value of the stock in his establishment. The man who buys his stock and gives notes for it, gets it on credit, is trading perhaps beyond his means, gets protection to the extent of the indebtedness he has incurred. To the extent that his business is not on a sound footing he gets protection from taxation. I know an instance of a merchant carrying on business with a stock of about $100,000. He is taxed for $85,000, that is his assessment. He has a neighbour who is competing with him who buys his goods in Glasgow and who owes for them. The man who has by thrift in business, by many many years of hard work, accumulated sufficient capital to pay for his stock of goods, is fined for his sound business methods; he has to pay an assessment on the whole of that stock. The other man with a similar stock gets off with an assessment of $5,000 or $10,000. He is getting the whole of that stock protected—or the people who are interested in the goods, the people in Glasgow, are getting the benefit of low rates of fire insurance by reason of the municipal expenditure in providing a full and adequate water supply for fire protection and an expensive fire brigade with steam fire engines and extension ladders and every modern improvement in fire apparatus. If it were not for that expenditure they would have to pay almost a prohibitive premium of insurance on those goods, 5 per cent. probably at least, but their premium of insurance is reduced down to less than 1 per cent. by reason of the municipal expenditure, towards which the owners of these goods are contributing nothing—because the creditors in the old country are practically the owners of the goods and the debtor here who is selling their goods is doing it practically as the agent for them, and they are getting all the benefits of our municipal expenditure and paying nothing towards it. I say that is most unjust. The object of the law ought to be to distribute the burden of taxation fairly and equally so far as the law can accomplish that; and now this introduces an element that establishes an inequality at once. More than that, it encourages dishonesty. Many a man who is well able to pay for his goods will, at the time of the year that the assessment is being taken, buy his goods at 30 days or sixty days and say, "Here I have a large stock but I have bought this stock on time, and I owe on them, I cannot be assessed on that," but by the time the assessor has gone, by the time the first of October has passed, that short date paper is all cleared out and the man owns that stock absolutely. He did not own it absolutely at the time of the assessment because it paid him better and suited his purpose to have it on credit so that he could evade the assessment. Now if a man has $100,000 and puts up a building and borrows $50,000 on mortgage for the purpose of putting up that building he has to be assessed on the whole value of that building, but if he buys $100,000 worth of goods and only pays $50,000 on them he is protected from taxation as regards the other $50,000. Now why should that merchant be in respect of his personal property in any different position with regard to liability of taxation than with regard to improvements on his land which are to a certain extent personal property in this way—they are materials and property that has been personal property, converted into realty by being annexed to the land.

All that which forms the buildings was in its original—or rather in its intermediate—state liable for taxation as personal property, but the moment it becomes fixed

to the land it is converted into realty. But why should the principle of its taxation be changed on its conversion from personalty into realty by being put into a building? Then this clause introduces the inquisitorial element in connection with the taxing of personal property. If all the goods on a man's shelves were to be assessed just at what they were worth the value is easily ascertained. He does not like to show his stock sheet; but a valuator could go in there who is an expert in the business and look through what he had in his warehouse and could give within a fairly reasonable margin as to the full value of that property. The man does not have to expose the condition of his finances, the state of his credit, how much he owes or how much he may be involved or embarrassed, and so expose himself possibly to financial difficulty or attacks from his creditors; his stock is there, and he is assessed for what is there and that is what is being protected by the expenditure of municipal money.

In connection with that I would say that I do not think it is fair to tax as personal property book debts and notes and property of that kind. They are getting no protection from municipal expenditure although held to be liable for taxation. I may say this, that the assessor gets very little of that upon his books, notwithstanding that there are probably millions of property of that kind in our cities. I do not see why it should be assessed, because it has not derived any benefit from municipal expenditure, and there seems to be no reason why it should contribute towards it; but it is different in regard to this visible personal property, which is just as much a subject of benefit from municipal expenditures as buildings which are taxed at cost. There is a general law with regard to water works, that the assessment for contribution to the expenses of water works is imposed upon real estate; real estate is assessed for the water rates; there is no assessment directly imposed on personal property for water rates; and yet the personal property, so far as water works are necessary for fire protection, probably derives a benefit to a far greater extent in money than other classes of property do from the expenditure for water works. We had an instance recently in Hamilton that may illustrate what I have to say. Complaint was made by the Underwriters' Association that the water pressure was not adequate for fire protection, and they insisted that unless the water pressure were greatly increased they would raise the cost of the rates to an amount that was—I would not say almost prohibitive—but would have been a very heavy tax upon the whole business community. The small property owners, men owning houses and lots assessed, say, at $1,000 throughout the city, were not interested in this question because the fire protection was ample for their little properties. They did not need a stream of water that would carry up three or four storeys. They had their little one or two storey houses and there was adequate fire protection so far as they were concerned, and this addition to our expenditure of $200,000 that was necessary in order to lay down the third main and increase the water supply, they were not concerned in, and so a difficulty arose as to raising the money. Fire protection was absolutely necessary in the interest of all those business houses and the merchants and the men who carried large stocks of goods, but so far as the general class of population are concerned who are entitled to vote upon money by-laws, were not immediately concerned in this expenditure because it was not really called for or needed by them, and so the council were in a dilemma with regard to it. The demands of the Board of Trade and the business community had to be complied with if possible; it is in the interest of the success of the large business concerns of the town that this additional water pressure should be provided. However, they did risk the submitting of a by law to the people, and to the surprise of a very great many people it was carried, and the additional taxation has been imposed; but that has been imposed upon the community at large chiefly for the benefit of those who were carrying very large stocks of goods and were interested in keeping down the rates of insurance. I was just giving this as an illustration of the reason why this class of goods participated to a very large extent in the benefits to be derived from heavy municipal expenditures, and therefore it seems to me that they ought to contribute their fair share towards municipal taxation. But that object as to contributing their fair share is entirely defeated by this clause which permits merchants to deduct their indebtedness from their goods, and however that indebtedness may exist it is always twisted round in some such way that it is indebtedness in respect of those goods, no matter how it originated; it is always turned round in that way that they can protect themselves from assessment on those goods; but even then the dishonest trader gets the advantage of the honest trader,

because he will always make a return to the assessor that is—I won't say cooked—but it is arranged in such a way that it is dishonest. Probably if the Mercantile Agency reported him in the same way that he reports himself to the assessor he would bring an action of damages ; but one report is for the purpose of obtaining credit while the other report is for the purpose of escaping taxation. There is also this to be considered in connection with the taxation of mercantile stocks : The average stock that a merchant carries may be only one-tenth of his turn-over during the year. He has during the year, an average, we will say, of $20,000 of stock in his shop, but his sales will be $200,000 —I am speaking now in a general way, not intending to be exact. Well, now, the owner of a building pays taxes upon the whole value of that building although he only gets one profit out of it. He may get 5 or 6 per cent. on his investment. The merchant turns over this property, say ten times in a year, and he is only taxed on it once, so he in that respect gets an advantage to the extent of ten times over the man who puts up a building. I know it is said that if merchants are taxed in this way—I believe it is said in Toronto here—it will drive the wholesale trade away to Montreal because they won't stand the taxation here, and so on. Well, I never heard that feeling expressed in any other locality, but all I can say is that if it is not fair that merchants' stocks should be assessed at their fair value, let somebody say at what percentage of their value they could be assessed, but let the assessment be fairly distributed over all those who are in possession of goods that are being protected by the results of municipal expenditure. If the Commission should think that it would not be fair, that it might be an injury to business to tax these stocks on the same principle that buildings are valued, that is, at their full value, let the representatives of those interests say what percentage of value would be a fair one to assess them at. But I do not think anybody can but feel at present the utterly unjust method of assessing only what is left after deducting the debts, which leads to so much dishonesty in the returns of the assessor and leads to so much inequality and unfairness as between the trader who carries on his business on sound business methods, and the man who is up to his ears in debt in order to try to make a profit, knowing that the loss will be the loss of the creditor and not his own. He may live extravagantly, and use on himself all the profits that his creditor should get, while at the same time he is living in luxury out of the profits he gets. I think the present system is an encouragement to unsound methods of trading and also dishonesty in representing the financial condition of the trade. There is another branch of the subject which perhaps is connected with this but is a somewhat different phase of it, that is the distinction between the taxation of individuals or partnerships and the taxation of corporations. I refer to section 39 of the Assessment Act. The first section is proper enough—"The personal property of an "incorporated company other than the companies mentioned in subsection 2 of this sec- "tion, shall be assessed against the company in the same manner as if the company were "an unincorporated company or partnership." This puts the individual trader or the trader who carries on business as a partnership associated with others in the same position as the limited trading company ; but when you come to the second subsection the injustice appears : "The personal property of a bank." With regard to banks I say nothing because their personal property is usually the property of their customers and is simply held by them by way of security, and we are not asking to have any change made with regard to the taxation of the personal property of banks ; but the balance of the section reads, "or of a company which invests the whole or the principal part of its means in gas "works, water works, plank or gravel roads, railway and tramroads, harbours, or other works "requiring the investment of the whole or principal part of its means in real estate, shall, "as hitherto, be exempt from assessment." Now, according to the reading of that section a concern—say it is a manufacturing concern—trading concern, or a company carrying on an enterprise of any description—can escape taxation upon all its personal property by showing the whole or principal part of its capital is invested in real estate. We have that illustrated in a case perhaps a little aside from the present discussion, that is, say telegraph and telephone companies They contend that they have invested nearly all their means in real estate and they are not taxable as personalty ; but although they will show that they have invested say a million of their capital in real estate, when you come to the real estate they say, that is only scrap iron ; so they escape taxation on both ends in that way. But with regard to mercantile or manufacturing or business firms, if a man turns himself and his partners into a joint stock company, all they have to show is that

the whole or the principal part of the capital stock is invested in real estate, and then they can claim exemption entirely from taxes on personal property; and that I think is an injustice; it is an utter inequality that should not be there, and entirely unfair to the individual trader or to the private partnership. Then I come to section 40.

The CHAIRMAN: What would you do with this sub-section 2 then?

Mr. MACKELCAN: I would have it repealed altogether except as regards banks. I may say that this was considered by the Ontario Municipal Association and in No. 8 of the resolutions passed by them the words are, "That the personal property of incorporated companies, other than chartered banks, should be liable to assessment to the same extent as that of any private individual or partnership, and sub-section of section 39 of the Assessment Act should be amended accordingly." Then the other paragraph to which I was alluding to immediately before this, resolution No. 6 of the Municipal Associaton, "That the Assessment Act should be so amended as to distribute the burden of taxation more equally, and with this end in view, the assessment of personal property should be made without regard to the debts owing on account of it." Then in section 40 arises another difficulty which I think should be removed. My argument in favour of the assessment of personal property—and I am speaking of tangible and visible property—is that it derives benefit from the municipal expenditure in the locality where that property is situated, and I think therefore that all personal property should be assessed in the municipality or ward where it is found irrespective of where the owner of it resides. The owner of it may reside in Glasgow or Montreal or in some other municipality, but this particular property is receiving municipal protection and therefore it should be assessed where it is, and we would get rid of this difficulty—a man may say, "Oh, well, I have goods up in London, I have some goods, scattered in different towns and municipalities through the province, my total personal property is so much. I own personal property valued at so much and this is my headquarters—say in Hamilton or in Toronto but the goods are not here, they are deriving no benefit from local taxation. Under the strict law, as the owner of these goods, and there being no indebtedness against them, I am liable to be assessed for the whole value of them at the headquarters of my business, I have no branch, but I have these goods scattered round the county and I am liable to be assessed say, here in Toronto, or at Hamilton for the whole of those goods that I own" Well, I do not think that is fair, because those goods are deriving no benefit from this local expenditure for municipal purposes. They are deriving benefit in the place where they are situated, and it seems to me that all personal property, just like real property, should be assessed where it is and where it is deriving the benefits from municipal expenditure. In that way we would have as easy a method at arriving at the assessment of personal property as we would have of real property. You find it is there and trace it and assess it accordingly, to the owner if he can be ascertained, and if not to the person in whose possession this property is found.

The CHAIRMAN: You rest that, I suppose, on the fundamental proposition that the money is required for local purposes?

Mr. MACKELCAN: Yes.

The CHAIRMAN: And therefore it is only local matters that should contribute?

Mr. MACKELCAN: Those things which derive the benefit from the local expenditure should contribute towards it. It seems to me if that were made the basis of our system of local taxation we would get at a principle that could easily be worked out. Now, you take this question of book debts A merchant is assessable on his book debts There are some merchants who are sufficiently strong to carry all the paper that they take for back debts; they do not discount at all at the bank, and if they complied with the assessment law—as very few of them do—and made a return of all those outstanding debts owing to them, they would be liable to quite a heavy assessment upon them; but the average merchant discounts that paper in the bank, and while those book debts are supposed to be liable to assessment they are all transferred to the bank, and advances obtained from the bank on them and so they are not assessed in general except where they consider all open accounts and then we get very little return from them. It would be desirable so far as municipalities are concerned and so far as assessment of partnerships are concerned, to get rid of the inquisitorial part of their duty in the way of inquiring into the financial position of different merchants and manufacturers and persons in business in the community.

They say, "We don't want to know anything about your affairs: what property have you? We will assess your land, your buildings and your goods, all are there and whatever they are worth, we can see that for ourselves without asking any questions or compelling you to make any return. This is all visible, tangible property within reach, and receiving benefits from the funds which we propose to raise by taxation. It does appear to me that if we go down to that basis we would very much simplify the law of Assessment and make taxation fall equally and justly on all classes of property that should contribute towards municipal expenditure. I will not detain the Commission any longer in regard to this view of the subject as no doubt they would like to hear the views of other gentlemen.

The CHAIRMAN: It would be convenient to hear anyone else who proposes to advance the same views which Mr. MacKelcan has so fully laid before us.

Mr. MACKELCAN: There are gentlemen who might wish but they are too modest to open the subject. I think perhaps they would prefer to hear something from the other side

Mr. Justice MACMAHON: It would be convenient to hear one side first and then reply could be given. As you have taken up the subject you can reply to anything that is advanced from the other side.

Mr. MACKELCAN: I would call upon Mr. Hutton. He is our veteran assessor in Hamilton. He has been assessor for over 10 years and has probably had more experience in the assessment of real and personal property than any other person in our municipality, and particularly with regard to personal property. He has made a thorough study of the subject and is very well versed in all details of it.

Mr. FRANK HUTTON (Hamilton): Mr. Chairman and gentlemen, it is with a good deal of diffidence at the request of our city solicitor that I came down to say a few words to you with regard to the Assessment Act. As he has said, I have been an assessor in the city for ten or twelve years. I have had a good deal to do with the assessment of personal property in Hamilton, it having been delegated to me as part of my particular duty by the Commissioner. The assessment of personal property and income is a source of a good deal of trouble, and a man who would scorn to tell an untruth on other subjects does not hesitate to declare that he has no personal estate liable to taxation, but is exempt because of clause 24 of the Act, that is the clause that allows him to deduct his debts. To my mind the fair way to assess visible personal property, and that is what Mr. MacKelcan has been speaking about, is to assess it where it is, that is, in the municipality in which it is situated, irrespective of where it is owned. This would not bring under assessment any new class of property, because under the Assessment Act it is all supposed to be assessed now, either on the merchants' shelves or as an account against the man from whom he bought the goods. The Act says all property is assessable, but it does not work out that way, because the man who sold the goods and has not yet been paid for them, simply says, oh, he took notes and discounted them at the bank, and they are the property of the bank, therefore he has no book debts—thus taking from taxation all of that class of property which has not yet been paid for but which the Act supposes is assessed some way, simply because the man gave notes and the merchant who took the notes discounted them. I might cite a case that occurred to me two years ago in Hamilton. One of our large wholesale houses gave me a return, a straight return, showing the amount of goods he had, the amount of book debts, and the amount that was owed. The result was that their assessment was doubled. When they got their assessment papers and found that it was doubled, they came around and said, "Oh, we made a mistake, we forgot that we had discounted those notes at the bank, therefore, of course, we don't own them, the bank owns them and the bank is not assessable for personal property, therefore our assessment goes back to what it was before; deduct from the goods we had on our shelves the amount that we owe, but let the goods alone."

The CHAIRMAN: The result being that these goods escaped taxation?

Mr. HUTTON: The result being that these goods escape taxation. He simply takes his declaration and the property escapes taxation. The municipality where these goods are is put to the expense of protection for the property that does not pay one cent into the municipal treasury for that protection. The proper place to tax is in the municipality that provides the protection. Surely it is not in a municipality where it is simply

a book debt and where nothing is spent for the protection. The present mode also gives an unfair advantage to the man who can square his conscience by taking the declaration before-mentioned over the honest trader who trades on his own capital. I may say that there is one drygoods house in Hamilton that pays more on personal property than all other—mark this—all other drygoods houses in Hamilton combined. That is a fact.

The CHAIRMAN: That means stock in trade?

Mr. HUTTON: Yes, sir, stock in trade, one drygoods house pays more than all the other drygoods houses combined.

The CHAIRMAN: That might be because it was as large as all the others put together.

Mr. HUTTON: Well, it would have to be a very collossal undertaking.

The CHAIRMAN: Do you say it is not?

Mr HUTTON: I say it is not, that the one undertaking is not as large. The store I speak of is only 60x32, three or four storeys, and I guarantee I could safely say all the stock of all the other houses would be five times his stock.

The CHAIRMAN: Suppose his stock is all paid for?

Mr HUTTON: It is.

The CHAIRMAN: And the stocks of all the others are not paid for?

Mr. HUTTON: They are not as a fact.

The CHAIRMAN: That accounts for it under the present law?

Mr. HUTTON: Certainly, that accounts for it under the present law. I do not think that the gentlemen who take advantage of the Act are doing wrong. The Act is there, and they have a right to take advantage of all the provisions there are in it. There is another class of personal property that Mr. MacKelcan did not touch that I would like to say a few words about. Another class of personal property about which there is a good deal of contention is the money deposited in banks, which is supposed under the Act to be assessable as personal property. This is a class of property the assessing of which is more honoured in the breach than in the observance, for as a matter of fact not half a million of this class of property is assessed in Ontario, while there are to-day deposited in the various banks of Ontario upwards of eighty-four millions of dollars, which can only be drawn on notice, and some thirty four millions which are classed as open accounts, showing that people deposit there for the purpose of getting a revenue out of it, and the other thirty four millions are what are used by people in business; at least that is the way I size it up. That is not taxed.

The CHAIRMAN: You are speaking now of Ontario banks?

Mr. HUTTON: I am speaking now of Ontario banks. That is the best information I can get. It is pretty hard to get it accurately, but I took it from the last Monetary Times.

The CHAIRMAN: You did not include, for instance, the agencies of the bank of Montreal?

Mr. HUTTON: No; there is not more than half a million taxed As a matter of fact I know of only one case, and that is a case near Hamilton, where somebody found out that a gentleman had a deposit receipt for fifty thousand dollars and he was taxed, and properly taxed, on that. It was a very great hardship because it simply resolves itself into the case, as Mr. MacKelcan says, of an Assessor having to go nosing and finding out who has got a few dollars on deposit, not only a few dollars, but hundreds and thousands of dollars—whatever it might be—and put him down and, as I say, soak him, while another man, who has perhaps a good deal more money on deposit, gets off simply because he is not found. Therefore, in order to distribute the burden equally we should all pay a fair share. If it is intended to leave money on deposit in banks assessable, machinery should be given by which to arrive at the information necessary to the Assessor. That, I think, from my conversations with bank managers is altogether impossible. The only way you can get at it is to have the banks make the return, and that, I take it, is something that can hardly be asked for This clause should either be taken out and that money not assessed, and simply the income assessed, or else machinery should be given for assessing I said at the beginning that gentlemen who would scorn to tell an untruth on other subjects would not scorn to do so on assessment matters. To follow that up I have had cases come under my notice within the last two years where

people had given me declarations saying they had no moneys, notes or other accounts, and six months later they have passed away, and their wills have been probated, and I have found that they had from fifty to five hundred thousand dollars in just such classes of personal property. I do not think they are any worse in Hamilton than they are in Toronto. I further say if all those classes of personal property are assessed the burden would be materially relieved from the real estate. To my mind real estate to-day is carrying the burden of taxation, and if all those classes of property were assessed it would be a very great relief. I think the question should be taken up of assessing the money that is in the bank, etc., and that it is a matter that requires very grave consideration, because it is hard to get at without making the assessor more inquisitorial than he is at present. In reference to giving the Assessor more power so as to arrive at this you may say that the law now provides that a return shall be made by the party liable to be assessed on the demand of the Assessor, as per section 47 ; but that clause is at fault in so far as it places no limit to the time when that statement shall be delivered. I have left statements with gentlemen for filling up, and it has got to the 30th day of September and no return made, the result being that the Assessor has simply to guess at the amount or let it go altogether. He guesses high enough and brings the gentleman before the Court of Revision and discloses all his affairs before the public gaze. There should be a time limit placed on that the same as there is in the succeeding sub-sections in regard to incorporated companies, which are obliged to make returns within thirty days of the time demanded by the Assessor. With reference to the individual no time limit is placed. In regard to the furnishing of this statement I may say in all the number of returns I have handled during my ten years' experience I had only two that acknowledged having any cash in bank or in their pocket; so that the statements when they are worked out are not of much avail. The exemptions of "banks and companies" under sub-section 2 of section 39 should be done away with. As Mr. MacKelcan stated, incorporated companies are investing the whole of their means in real estate. I say this is but another case of discrimination in favour of companies as against individuals. Not only do the particular companies mentioned benefit in regard to personal estate, but having gone to the trouble to show that most of their capital is invested in real estate, then they go to work to prove that the realty is worth nothing so as to escape taxation on the realty at its fair value, which was apparently the reason for granting the exemption on the personalty. The supposition was that because these companies had invested all their property or the bulk of it in realty, and would, therefore, be taxed because all realty is taxed, that therefore they could afford to pay further on personal property. One of the schemes—I won't say schemes—but one of the ways that it is worked up as regards personal property—is that the companies invest a large portion in real estate, say one hundred thousand dollars, borrow seventy-five thousand dollars, and buy personal property. To my mind the fair way of assessing all property, both real and personal, is to make no discrimination between the two, to assess the one the same as the other, make no discrimination between companies and individuals, treat all alike, and to assess as far as possible only what is in sight

The CHAIRMAN : Mr. MacKelcan, I would like to ask you and Mr. Hutton, you say you would not tax anything except what was in sight ?

Mr. MACKELCAN : Yes.

The CHAIRMAN : How do you regard cash at a man's credit in the bank ? How is that in sight ?

Mr. MACKELCAN : Well, we don't think——

The CHAIRMAN : It is a mere debt due from the bank to the customer.

Mr. MACKELCAN : We do not think that ought to be taxed.

The CHAIRMAN : At all ?

Mr. MACKELCAN : No, it is not deriving any benefit from municipal expenditure ; and we might as well say that, because we never get it.

The CHAIRMAN : What would you say to municipal bonds and securities of that sort ?

Mr. MACKELCAN : That comes under the head of income.

The CHAIRMAN, A merchant invests his property in things of that sort.

Mr. MACKELCAN : Then he would have to pay on his income in respect of those investments.

The CHAIRMAN: How is that income in sight? I want to get your theory, I want to get your principle of what the law ought to be You have told us what it is, and the way it works out and so on, and you wind up by saying that you do not think that anything that is not in sight should be taxed. I want to see just what the limits of that are.

Mr. MACKELCAN: I was going to deal with the question of assessment of income when the matter comes up on the 23rd November. I would say that the tax on income is something aside, it seems to me, from the general question of taxation. There are residents in every community who have no visible, tangible property. We will take, for instance, a wealthy bachelor who boards somewhere, lives at an hotel, but he has an income of several thousand dollars a year perhaps. He is enjoying the benefit of good streets, driving for his own pleasure, sidewalks to walk on, and the benefit of street lighting and everything of that sort, but he has no visible tangible property that is subject to assessment, and he is getting all those benefits scot free. Well, he should be reached somehow. A tax upon his income is the only way you can reach him.

The CHAIRMAN: Suppose his income is from investments in England which are taxed there?

Mr. MACKELCAN: Well, then of course he has the misfortune of having to pay his income tax twice likely.

The CHAIRMAN: You think that ought to be done.

Mr. MACKELCAN: I think that ought to be done.

The CHAIRMAN: Just because he is enjoying the benefit of civic government?

Mr. MACKELCAN: Yes, and he enjoys all the benefits of the community, enjoys all the advantages that are conferred by the lighting and keeping in repair and building of the streets and sidewalks and everything of that kind. If he were out in the country where he had to walk through mud the enjoyment of his income would be very much less than it is in the City of Toronto.

The CHAIRMAN: He pays his hotel bill, which includes rent for his room.

Mr. MACKELCAN: That may be so, but he does not pay anything like——

The CHAIRMAN: The landlord pays the taxes on that and charges him accordingly.

Mr MACKELCAN: That may be so.

The CHAIRMAN: But you think he ought to pay on his income?

Mr. MACKELCAN: Income, of course, has always been recognized as a proper subject for both state and municipal taxation, and I would not suggest any such radical change as the doing away with the tax on income, but at present——

Mr. JUSTICE MACMAHON: Income would be beyond the expense of living.

Mr MACKELCAN: I think not. Income would be the balance beyond anything expended in earning it, but where a man spends it in luxurious living or hoards it up and invests it in securities, would make no difference as to his liability for taxation on the income that he actually receives. Of course if he has to lay out a considerable sum for salaries and expenses and so on to earn that income that would properly come out of it.

Mr. JUSTICE MACMAHON: What he paid out in order to earn the income would not be income.

Mr. MACKELCAN: Well, that would be deducted from his income, and it would be only the net balance of gain that would be his income, but that would be liable to assessment no matter whether he squandered it or invested in or kept it in his pocket or deposited it without interest in the bank; but I think I am making quite a large concession when I say that I do not think that money in the bank, money in the shape of notes and accounts and debts should be assessed, but the income of all money of that kind and the revenue derived from it I think is properly assessable under the head of the income tax. Our statutes not only recognize income tax but they give rights to the man that pays income tax and no other; it gives him the right to vote, and gives him not only municipal but provincial and federal rights.

Mr. JUSTICE MACMAHON: I suppose as far as income is concerned it does not matter whether a man has fifty thousand dollars of municipal debentures and gets four per cent for them or has fifty thousand dollars in the bank. It is the income derived from them which ought to be taxable.

Mr. MACKELCAN: I think so; of course under the present law if it is deposited in the bank the capital is taxable, but it never taxed.

The CHAIRMAN: How does it strike you that income obtains or receives municipal protection?—because that is your principle, as I understand it.

Mr. MACKELCAN: That is the fundamental principle in regard to the taxation of property, but there is another principle that is also invoked, and that is that there are many men in the community who earn incomes that receive general benefit from the whole community.

Mr. JUSTICE MACMAHON: A man has a horse, he drives on the street; a man walks and wears out the sidewalks, if he is a good pedestrian.

Mr. MACKELCAN: Yes, and the taxation of income is a thing which has formed part of our assessment law for a very great many years, and is part of the assesement law of all other countries, you may say, and I think that the benefit that those persons receiving good incomes derive in a general way from all the conveniences and advantages of a city should make them quite willing to contribute. There is one thing my learned friend Mr. Fullerton suggests, there is the protection of the person as well as the protection of the property, and they share in that. If they were living in a lawless place—

The CHAIRMAN: Police protection?

Mr. MACKELCAN: Yes, where there would be no protection for them, probably they would be subject to a tax, so that they ought to be willing to give quite a fair share of their income for the protection they have.

The CHAIRMAN: Is there any one else desiring to be heard on that side presenting similar views to those which have been presented by Mr. MacKelcan and Mr. Hutton? If not, we shall be glad to hear any one whose views differ from those. It will be convenient now to hear one of the Boards of Trade.

Mr. A. E. KEMP, M. P., President of the Toronto Board of Trade. Mr. Chairman and gentlemen of the Assessment Commission: I am here with my colleagues to represent the interests and the membership of the Toronto Board of Trade. There are three or four other gentlemen who would also like to speak in reference to this question of personality tax. I suppose in speaking for the membership of the Toronto Board of Trade I speak also largely for the commercial interests not only of this city but of other places in this Province, other incorporated towns and other cities. We are here to represent those who do not seek to hide their capital, but whose endeavour it is to invest money in mercantile and industrial pursuits. I think I may say that those of us who represent the Board of Trade of Toronto will not disagree with what our friends have said who have spoken on this subject so far as the evils and inconsistencies of the personalty tax are concerned. I think we will pretty much agree with reference to that part. We will, however, differ from them with respect to remedies. They take the view that the remedy should be to tax everything in sight and not bother with that which can be hidden. Now, I submit that if that principle were carried out in its entirety that in a very short time there would be very little in sight left to tax, that the merchandise and plant which is in sight would go elsewhere, or would be confiscated; that real estate would depreciate in value, because places that were occupied would have broken windows, and they would be vacant, and they would rot. I think it would be a great step in the wrong direction. I am well satisfied that such a law could not be enforced. In discussing it I think the gentlemen have not taken into consideration the important question—that of the law of supply and demand and competition. It would lead to a condition of affairs more strict and stringent than the conditions which exist in the city of Paris in France, which is surrounded by a wall, and in addition to the Government revenue the civic authorities also get a revenue and demand to inquire into the values of all kinds of merchandize that come into the city of Paris. All of us who have had practical experience know what that means. We would have to shut this city up by a wall. We would have to have officers to watch the train loads of merchandize that come in here. If a man brought in a train load of nails—the profit I think on a keg of nails to a wholesale merchant is so small that he considers himself pretty well off if he makes a profit of five cents—if the rate of taxation in Toronto was about twenty mills on the dollar—it is near that figure now—it would take more than the merchant's profit on the nails which he brought in here to pay this tax. (Hear, hear). Now, we are advised this morning that in as much as we receive municipal protection that that is the excuse for taxing everything in sight. That is the reason why the argument is advanced.

The protection referred to by Mr. MacKelcan is fire protection and water works; that was the only kind of protection he referred to in discussing the personalty question. The question of police protection arose in reference to the income tax. Now, I would like to point out to you that it is a matter of very little importance to the industries of this City what protection they get from the City to a great many of them, in respect of fire protection. I would like to say that I am connected with a business in which I am under no obligations whatever to the fire protection which this city affords, that there is independent fire protection which we have of our own, and that my insurance is seventy-five per cent less than it was when I was under obligations to the city for fire protection (hear, hear); so that I think we can abandon any basis of taxation in respect to protection of that kind. Now, we are in competition in Toronto with other cities. We have given this question a great deal of consideration, and while I don't agree with my friends who have advanced their views this morning I have a great deal of sympathy for them, because they are gentlemen who have to meet all these inconsistencies, who have to come in contact with people that will lie, that will sometimes, I fear, perhaps go so far as to perjure themselves in reference to their affairs, and that perhaps would do other things. They have come to the point where they say, "Let us have consistency;" and that is what we want—consistency; we want equalization. We are not here to represent before this Commission that we want our taxation reduced. The City has got to have a revenue; what we are here this morning to say is that we want it equalized. This city is in competition with a city like Montreal, for instance. Montreal is a seaport. The importer brings his merchandize to Montreal from various countries, from various parts of this country. What he brings from foreign countries across the sea he brings in shiploads to Montreal, and it is dumped off and put into warehouses there, and Montreal becomes the great distributing point. Toronto is far better situated for the purpose of supplying the people of Ontario with the necessities they require than Montreal is; but for some years past, somehow or other this city has been losing ground in respect of her wholesale establishments. We have many establishments which have gone to Montreal. These people don't go to the Board of Trade, nor do they come to the Assessment Commissioner, nor do the Mayor and say much about it; they simply become extinct in Toronto and go elsewhere. What is the position? A merchant in Montreal carrying a million dollars' worth of stock—and there are merchants in Montreal that carry that: and there are merchants in Toronto that carry that—is taxed on a million dollars' worth of stock, if he occupies a building which was subject to a rental of four thousand dollars, his taxation would be three hundred dollars yearly. If a man wished to carry on that same business in Toronto under the law as it stands at present and on a rate of taxation of twenty mills his taxes would be twenty thousand dollars a year. Now, I say that guardedly, and I hope every gentleman in the room will take it in. That is the law, and I have no doubt the gentlemen will arise in this room before this Commission rises and will say, "but the law is not administered." But it acts like a scarecrow to merchants and to people who desire to invest their money in industrial pursuits in this city. We, then, have before us the constant demand for concessions. If a large industry wants to locate in Toronto he comes here and he says, "Well, what concessions can I get? I dare not locate here; I cannot pay the taxes under the law;" and he goes to other municipalities throughout the Province and he says the same thing, and then there is scramble to see which municipality will get the industry, and concessions are asked for. As the law exists at present I am told—and I think my friend Mr. Fullerton will bear me out—that by a two-thirds vote of the duly qualified ratepayers of the municipality concessions may be granted—is that right?

Mr. FULLERTON: In certain things.

Mr KEMP: In certain things. Now, it is quite easy to conceive that in a small municipality of five or ten thousand people that you can get two thirds of the people to vote. The question of getting a live industry to locate there and employ one or two hundred hands is a matter of very great importance to a place of that kind; but that law is of no avail for a city like Toronto. We could not possibly expect to get two-thirds of the people out to vote on any such question. Therefore, I say that law is unfair; it is unfair to the city of Toronto, it should never have been passed. The city of Winnipeg considered this question a few years ago very, very seriously. The people of Winnipeg are an ambitious people, an enterprising people, they said: "How are we going to

have people locate here in Winnipeg—wholesale people, manufacturing industries? They won't locate here if this personalty tax is enforced." So they studied the question, and after giving it very careful consideration they decided upon taxing wholesale warehouses three cents per square foot of floor space occupied; they decided on taxing manufacturers ten per cent. on the rental value of their premises, and taxing retail stores eight and three-quarter per cent. of the rental value of their stores. What was the consequence to Winnipeg? That dozens of magnificent warehouses have been erected, and they are in hopes that manufacturers will soon commence to locate there. I venture to say this could not have been done in Winnipeg and would not have gone on only for the law which was passed and put in operation. Now, what is the use of having a law on the statute books that is impracticable, and which if enforced would lead to confiscation? And I take it the Commission has been appointed for the purpose of considering this question and remedying the conditions which exist. I need hardly go over the inequalities and the objections to this personalty tax. Anything I would say has been touched upon by Mr. MacKelcan and his colleague who have preceded me. But there is that question of the man who can mortgage his property and pay cash for his merchandise against the man who has a book liability shown on the other side and escapes taxation because he offsets this against it; but at the same time this question of avoiding personalty tax as it exists to-day with a man who does not desire to be straight, it is only a matter of book-keeping. Even in the ideal condition which my friends think would be the one to bring about and should be brought about, a man could create a fictitious liability on the other side of the Atlantic and fix his books up so that the assessment commissioner could not find that he had any capital at all. Then, again, we take a man doing business here in Canada, a Canadian who owns his own capital, and he puts that into the business and he has no debts, under the present law he could be assessed for every dollar. A man residing in Glasgow or in England says, "I want to start the same kind of business in Toronto as this gentleman is carrying on, and I am going to carry that business on under the name of Brown & Co." That man can charge his merchandise up to that concern and he can have a liability all the time which will cover all the stock in trade. Is that fair to the man who invests his money?

His Lordship: That is pretended liability.

Mr. Kemp: A pretended liability really, but it is easy enough to accomplish that. Now, what we say is that we desire to be put on the same basis, if it is necessary to raise any money from personalty, we desire to be placed on the same basis here in Toronto and in Ontario as the people who are our competitors; and the two great cities in this country that are the competitors of Toronto have the advantage of us and will have the advantage of us—Montreal and Winnipeg. Montreal has seven and a half per cent. taxation on the rental value of the stores. It does not make any difference what a man does in that store or what kind of merchandise he puts in the store. The more merchandise he puts in the store and the larger industry he has the better for the city—(hear, hear)—the more people he gives employment to; but a man wishing to start business in Montreal or Toronto is not going to start business here when he looks into our laws and says, "Why, you can put an officer of the corporation of Toronto into my business and inquire into things that no person in the world has a right to know except myself." (Hear, hear) Now, that is not fair and is not just, and yet it is one of the conditions that exist. I would not have the Commission or any gentleman in the room feel that I am complaining about what has taken place; but we are now coming to a time when we must consider these question, and if we desire to see the cities and towns in this Province go ahead let us consider what we have to do in order to meet the competition that exists outside from such distributing centres as Montreal and Winnipeg, and I venture to say that if this law is enforced, if it becomes known what our law is, capital will refrain from investing in this city. Our friends have said that it is no use in trying to tax this one hundred and eighteen millions of dollars of money in the banks, but they would tax that one hundred and eighteen millions of dollars the moment it was put into industry. Now, just think of it. This Province would derive a revenue of between two and three millions of dollars out of the money that is in the banks to-day that is not taxed, but the moment that a man dares to take his money out from on deposit and put it into business and into merchandise and into industry that moment he is subject to taxation for every dollar. Now, is that reasonable? Is it fair. Is it likely to build the city up?

The men who ought to be encouraged are the men who take their money out of the bank and put it into business and put it into industry, not the men who hoard it up and hide it away. At the same time is it reasonable that money drawing three per cent. in a bank should be taxed two per cent., or whatever the rate may be—it is about two per cent. here now—nearly two per cent—and yet if that money is put into merchandise or industry it is subject to taxation of sixty per cent., about, of what its value would be if it was in the bank. So that I say these things are inconsistent, and we protest against them, and I only endorse what has been said by my friend, that the attempt to administer the law leads to corruption, perjury, and disrespect for law, and drives people away from this city and away from Ontario. I am glad to see here this morning the recognized officials of the city who are trying faithfully to carry out the law as faithfully as they can. I would also be glad to see here to-day the mayor and the aldermen of the city—(hear, hear). These are the men who keep in touch with what is going on; but it should not only be left to those of us who are engaged in commerce, and who have our hands and fingers on the pulse of commerce, but this is a question which I regret to say the city council of Toronto have not given their attention to, and therefore we come before the Commission and hope the Commission will so represent it to the Government that the Government will put into operation a uniform law which will affect all classes in Ontario and all cities and all towns, and that it won't be necessary to get special concessions in special municipalities. The grain, the cereals, the flour now warehoused here and brought here for distribution are exempt from taxation; the principle is adopted. Then, why should tea or coffee or sugar or nails or horseshoes or drygoods be taxed? You see the whole thing is one inconsistency after another; and I say that we cannot build up a great city and a great distributing centre and a great manufacturing centre with this law as it exists at the present time. I will not refer to the question of the money that is invested in our loan societies and banks more than to say that I hope that more people will invest their money in enterprises and mercantile interests whereby labour will be employed—(hear, hear)—not to have a law which will discourage that. What our friends propose is something that is wholly impracticable, and we want to protest against it with the utmost strength that we have. I think I have touched upon all the points I intended to propose. There is just this point that my friend referred to: He says a man turns over his stock ten times a year, and every time he turns it over he makes a profit. That is a very peculiar view to take of it. I would like to draw attention to the fact that ninety-five men out of a hundred who go into business make a failure of business, and only five men out of a hundred succeed and make a profit. A man may turn his capital or merchandise over ten times or twenty times or once, and yet it may result in a loss to him. I don't see any argument in that any more than I see it in the fire protection as I pointed out and illustrated. The cities we have to compete against are Montreal and Winnipeg, and we hope that the Commission will inquire into the conditions that exist in those places, and if possible urge upon the Government to adopt a uniform law throughout the whole Province. I would like you to hear Mr. Caldecott and Mr. James D. Allan, and perhaps Mr. Brock.

I have a resolution here, which I will leave with the Commission, passed by the Board of Trade, also extracts from the addresses of the various Presidents of the Board of Trade—one from Mr. Edward Gurney, one from Mr. Elias Rogers, and one or two from myself (*a*).

Mr. STAPLETON CALDECOTT: Mr. Chairman, and gentlemen of the Commission, I beg to say I heartily endorse what my friend, the President of the Board of Trade, has said with reference to the injurious nature of the present tax, and also I would say that the assessors from Hamilton—as far as I could listen to what they said—were very fair in presenting the evidence from their standpoint, which is, I presume, the object of getting all the money they can out of the people. With regard to this personal assessment the Board of Trade passed their resolution first of all on the well-founded principle that taxation should be based upon an exchange of values. The difficulty is, that in some men's minds, taxation is not a clearly defined thing. When they go to buy a coat, or to buy food, or to buy land, the question is never asked, "What are you worth"? There is the value of the coat, or the food, or the land, and you all pay the same price because

(*a*) See Appendix A, No. 3.

what you are buying, it is supposed you are going to pay for—so much benefit and so much payment. Now, that, in my humble judgment, should be the foundation principle of all taxation, and especially of municipal taxation—and there is a broad line between governmental taxation and municipal taxation; and with all due respect to the powers given to the municipal taxation, I say that they have infringed, in some cases, what I would consider the prerogative of governmental taxation, and in Great Britain there is no such power known as the power to tax personalty—(Hear, hear)—it is utterly unknown there. It has only come from the American border, this idea of taxing personalty and no municipality in Great Britain has the power to tax a single dollar of a man's money, that is called personalty Now, see how this works in these cities, I will take a concrete example.

Mr. JUSTICE MACMAHON: In England there is an income tax.

Mr. CALDECOTT: That is a governmental tax, I said municipal.

They have no such power in England at all; nor have they in New Zealand, nor Australia. It is almost entirely confined to this continent—an old antedated thing that ought to have been long since swept away.

Mr. MACKELCAN: This is the most up-to-date country in the world.

Mr. CALDECOTT: You are mistaken, sir. Here, we give to three men in Yonge Street 50 feet frontage, Mr. Jones, Mr. Smith and Mr. Robinson; in other words we give them all equal opportunities to do business; they have all got 50 feet of frontage given to them, and upon that 50 feet of frontage the city levies, as I understand it, a well understood tax of twenty mills on the dollar. I suppose these three are all honest men—which is supposing a great deal—but one man has $20,000 invested in his 50 feet frontage, the other has $10,000, and the other has $5,000, and they have all admitted this to the assessor, and he is taxing that upon it. What is the result? Mind you, for equal opportunities, for equal protection, for equal everything, one man is taxed $400, another man $200 and another man is taxed $100. Is that fair? Is that right? What have you given? He has bought taxation from you, and you have given one man 50 feet, and he pay $400, for another 50 feet his neighbour pays $200, for another 50 feet the third man pays $100. There is a concrete example which illustrates the gross injustice of the personalty tax. Take another case. Mr. Brown, Mr. Williams and Mr. Thompson, each with 50 feet. Mr. Brown is a straighforward, honest man, and gives his statement correctly, and he is assessed for $10,000. Mr. Williams is a more shifty character and he puts it down to $5,000, he thinks that is all he can escape with; and Mr. Thompson is a downright rogue, he says he owns nothing. They have all equal benefits; they have all 50 feet frontage; and who pays the taxes in that case? Only the honest man. The downright rogue escapes absolutely and altogether, and the half-and-half rogue partially. Now, that is the taxation which ensues in this city all the time, and Mr. Fleming cannot prevent it under our present system. Now, my friend, the President of the Board of Trade, has so splendidly put before you the effect of competition on Toronto, that I am almost wasting time to refer to it again, except to say this, that if a man is to do an honest business in Toronto to-day in dry-goods or groceries or any other trade, he has got to consider this fact, that before he operates his capital he has got to pay—if he is an honest man—the civic authorities two per cent. on his capital. The banks are only giving three per cent. on savings to-day, yet this man has to give the civic authorities two per cent. before he can operate his capital. Whereas in Montreal, in Winnipeg, in Glasgow, in London, in Liverpool, and all those leading centres they have not to pay one brass farthing. Now, gentlemen, how is it fair and proper for our Toronto and Hamilton merchants to compete against competition like that, and as a result—and I am speaking positively here, for I have been over forty years now in the dry-goods trade, and know pretty much all about it—that dry-goods importations from London, Liverpool and Glasgow are caused to an enormous amount and helped in every way by reason of the iniquitous taxation you put upon your local merchants here. You see these gentlemen send their travellers out, and I know one Scotch house that has twelve travellers through Canada seeking to do business. They come to Toronto, they go all over the Province, and then we have a man like Mr. Brock, with a large, palatial establishment, paying a heavy tax and competing with these men who are not paying one red cent; so you see how you are destroying your own city by this method of taxation. Now heavy taxes have been and always will be a cause of mischief, and I submit this

proposition to you that any tax is bad that can be easily evaded by fraud or falsehood. No appraiser can properly appraise a stock of dry-goods in this city. It takes a merchant at least a fortnight to do it himself, and even then he cannot do it properly; and to tell me that Mr. Fleming and his assistant can appraise a dry goods house in this city is a thing absolutely impossible; no man can do it. What does he do? What is he compelled to do? To take the word of the man who owns the stock; and I am sorry to say when a man comes to give his value of his own stock in these cases, he is very apt to give it falsely and fraudulently, and I venture to say there is no single dry goods stock in this city to-day assessed for its full value, and cannot be, and neither the appraiser nor the man that owns it can tell what the full value is; the result is in every case, that honesty and honesty only, pays; dishonesty gets the reward. Any tax is bad that corrupts the minds of the people, and there is no more corrupting influence upon the minds of the people of this city than this very personal tax. In California, in 1861, the personalty tax was 50% of the whole tax; in 1894, it was 13½%, and it has been a diminishing quantity all the time because of the downright dishonesty of the people; and a Commission in the United States summed up in language something as follows, on this very point: That the personalty tax in the States, has made them a nation of liars and perjurers. Now, think of that, from a Commission.

The CHAIRMAN: What report is that?

Mr. CALDECOTT: The Commission of the United States on taxation.

The CHAIRMAN: Is it a Federal Commission or a State Commission?

Mr. CALDECOTT: I think it was a State Commission. I think it was Ohio, if I mistake not, but they put this in their report—it has made the country a nation of liars and perjurers. Now, then, any tax is bad that is unjust, and I only want to refer to my esteemed friend, Mr. MacKelcan here, to show how unjust, how unrighteous it is, this improvement that he is trying to carry out now. I will ask this question. I saw a list the other day of a lot of gentlemen in firms who were assessed upon income. I saw one firm of lawyers assessed for $49,000 income, and I said, "Good heavens, did the municipality give them brain, and learning, and knowledge, and all these?" All the municipality gave these people was a room about the size of this to do business in, and they are taxing them up to $49,000 income, all made by their own eloquence and their own ability, and I say it is a gross injustice to these men. Then, on the other hand, they want to go to a man who comes here with a million or $500,000 capital or $5,000 capital, as the case may be, and they not only tax him for the place in which he does his business, but they say, "Before you do business here, pay me two per cent. on all your capital." What is the result? To drive this man away, and to make business very different to what it would be on a different system. Any tax is bad that cannot be properly enforced; and I defy any one to properly enforce the present one. It leads, as he says himself, to inquisitorial practices, and degrading penalties which are not worthy of a free people. You know, sir, that the Roman Empire came to grief upon this very question of taxation. They gave to their tax collectors very great powers—the rack and the thumb-screw and indiscriminate search, and in some cases the cross—and they utterly failed to collect the personalty tax Now, do you think what they failed to do with all their power, a few forms and these assessors can do? What Rome could not do with all her power behind her, the government of Ontario or any other government could not do. The publican in olden times became a sample of hated tyranny, and if you pursue this thing to the bitter end it will make us hate the very sight of our assessors. In Boston they have a board called the Board of Assessors, and they have added to that another title—they are called the Dooming Board, because a man goes to his doom when he enters that chamber. Now, what did they do in other years? These men returned a personalty tax of $39,000,000 for the city of Boston, and when the Board of Assessors sat there they said to themselves, "It is utterly inadequate, utterly wrong," and what do you think they did? Without any further investigation they arbitrarily raised the $39,000,000 to $186,000,000. And that is what they call the Dooming Board of the Boston Assessors. In addition to that they have a board called the Board of Equalization—these things that our friend has been speaking about, coming up all the time, and this board has the power to multiply by four all that you put in, and they do it, because people always and invariably put in false returns. Therefore, it must be a bad law, in my judgment, that brings on such terrible failure. To show how true this, the other day

two ladies in Chicago, smitten with conscience for their past offences, went to the assessor there and reported that though he had them down for $100,000 their real assessment was about a million and a half. It is unparalleled, and has caused a great deal of excitement in Chicago, but it has shown this, that the assessment of the city of Chicago is altogether a fraud from beginning to end, and shows what danger there is to a city which in this way seeks to raise a revenue.

The CHAIRMAN: Has that example been followed extensively?

Mr. CALDECOTT: Yes, sir, it has, I am glad to say. I am told a number of other merchants are doing the same thing in Chicago. They are putting in what they call an honest return, the discrepancies between which and the original returns showing how personalty has escaped all the time. I venture to say if this personalty tax were to be enforced rigidly and to its full extent, there could not exist in this city a single Toronto wholesale house or manufacturer. (Hear, hear) They would be all compelled to move and go somewhere else; and therefore we are in that condition. Is it not an awful thing to think that our capitalists have to face that condition? I put that out for Mr. Fleming's consideration. This United States Commission winds up thus: "The taxation on personalty is absolutely throughout the United States a failure. It debauches the moral sense of the people; it is a school of perjury; it drives capital from the State; it teaches the citizens to lie, and it is an unmitigated misfortune to the country." That to my mind is stronger condemnation than any language I used myself; but I would end by asking this one question, "Why is it right to allow a farmer absolute exemption of the means of his living, of his personalty, and tax the merchant to his full extent? (Hear, hear)

Mr. W. R BROCK, M.P: The point from the Board of Trade point of view has been so fully covered that I would simply be going over it again, beyond the fact that I might speak from personal experience as to levying of taxes. When I came to Toronto thirty years ago there were then about twenty wholesale houses in addition to that I am carrying on; and gradually and slowly but surely they have not only lost their capital but a very large sum in addition, I have no doubt, not all having paid 100 cents on the dollar, and to-day I believe there are four or five wholesale dry goods houses here—all that remain, and a large amount of that money has been lost through the close competition that there is in that business Railways and telegraphs and so forth have brought the country so much closer together that one time we used to do a large business in Toronto which has been largely transferred to Montreal. I myself have found it necessary or desirable to have a wholesale house in Montreal in addition to the one I have here; and I wish to make comparisons as to the taxation, and I trust that our commissioner of taxes in Toronto, Mr Fleming, will bear me out that I have never endeavoured to evade to the slightest degree, to the extent of a five cent piece, of taxation and have never endeavoured to reduce the amount of my taxation. One would gather from the expressions here that it is almost impossible to take the word of a business man. I would not like that statement to go abroad. Some of the statements are so sweeping that it would make Toronto a very undesirable place for any honest man to come and try to do business in; and I think the difficulty is altogether with the laws not so much with the people who come out here. We have to do business in Toronto, that is if Toronto wishes to encourage business, and I believe they do, because I find we are offering exemptions from taxation to get people to come here to do business; but with the other hand we allow ourselves to be pushed into a state of things that would drive every wholesale house out of the place. I say that I have been obliged to open up a place of business in Montreal, a similar warehouse doing a similar business. My taxes in Montreal—I may be wrong a few dollars—was about $580; my taxes here I think were about $3,500. Now, if you were going to tax my stock two mills on the dollar, $1\frac{3}{4}$ mills on the dollar, on the insurance value of it, I have had insurance on my stock as high as $600,000 in Toronto. If you are going to tax me on every dollar of that stock you would simply drive me out of the place; I would not stay here one year, I would move my whole stock to Montreal—(Hear, hear)—and you might have my warehouse for a soup kitchen—(Laughter)—and many other warehouses as well; and I find irresponsible people, paying little taxes themselves, come here with doctrines that would drive away people who have been all their lives endeavouring to make money and when they do make it struggling to keep it—they do not want to divide it up with the whole public. Simply impossible!

No set of laws can be made that will with absolute justice bear fairly upon everybody, but we have got to avoid as much injustice as possible, and I would like this Commission to consider what will induce business to come to Toronto, what would induce business to remain here, and if they find that competition is such that other cities where taxes are very much lower I think we should allow conditions to prevail here that would enable Toronto to compete on fair and equitable terms with other cities here. There is another view. We are very generous in this country, in the Province of Ontario—more generous than they are in other Provinces where they charge a tax on every travelling salesman that goes into the country. Here we allow people from Glasgow, Germany, London and all the cities of the United States to come in here, and all they require is to take a room at one of our hotels and transact an enormous amount of business, not a small amount of business. Those people I contend take the cream off the business of the Province of Ontario; and what do they pay for it? True they pay their railway fare and two or three dollars a day board at the hotel they are living at; that is all the benefit Toronto gets out of them. I think this is a manifest unfairness; and I think it is manifestly unfair—I am not saying it is wrong—to turn around to those of us who put all our means into a stock of goods—true, for our own benefit, but largely for the advantage and convenience of the merchants of Ontario and other people doing business in Ontario, and for every person in Ontario it is a large advantage to have large stocks of goods in Toronto—and you drive them away; and if I did leave Toronto I would have sample pieces here and sell the goods from Montreal or from the factories where they are made. Therefore it is a discouragement to keep goods here, and I do not think it would arrive at what you want to get at, to get a fair taxation all over the community. I am not prepared to go into the matter; I did not come here intending to say a word, I came here intending to hear what the President of the Board of Trade would say, but he asked me to tell from my own experience what the effect would be of taxing every dollar's worth of goods in the country. Of course taxing notes and accounts would be a further grievance. There is no business, no profit that we could make here considering our competition, would pay for such a system of taxation I wish it distinctly understood that the difference between a profit and a loss in a vast number of wholesale houses here are looked upon as between four and five per cent. Now, if you go and make a great addition in the taxation you will see what chances there are in a bad year—this is in a good year—to pay 100 cents on the dollar. It would be simply impossible. We have to take an average of years, and if we make five per cent. in the good years, and in other years make less, all the five per cent. is soon swept away. So I ask the Commission to take these things into consideration in arriving at the taxation.

Mr. J. D. ALLAN: Mr. Chairman, and gentlemen of the Commission, the matter of taxation as affecting us locally as a country was fully gone into by previous speakers, and the experience of business men cited by them as an actual experience and not a problematic one. I need not cover that part of the subject at all; but it has seemed to me that in this matter of taxation we have never proceeded upon any good principle. We have commenced wrong, we have been going on wrong ever since, and so far as I can judge from the address of the advocate of the Municipal Association he is quite willing that we go on wrong yet, eliminating a few of the worst features that he finds fault with. Now if we are to tax personalty as he says, it is simply placing an octroi tax as referred to by the President of the Board of Trade, around all our cities. I assume that it is the desire of the Commission and of the Government to see that some fair equitable system is evolved from the present sessions. Therefore it does seem to me that instead of comparing ourselves by ourselves and what has existed in the past, with a few little gleams of intelligence that seem to prevail in other places, notably Montreal and Winnipeg, as quoted by other speakers, I think we should look a little farther and see what the practice is in other countries; and upon this subject I find the greatest ignorance prevailing in Canada. It does not seem to be known or thought of that we, in Canada, have a system of taxation that is about equal to what prevailed in England in other forms 600 years ago, and that we are practically the only British colony that retains the backward system that has been a brake upon all progress such as we have to-day. Even the colony of New Zealand—one of the newest—although they started in some localities with a system similar to ours, upon a vote of the ratepayers in those districts the system was changed and a system of rental values substituted in their place.

In Australia the same thing prevails, and all this for municipal purposes. But in order that I may not take up too much time, and at the same time state what I think is most important in connection with this, I ask the privilege of reading to you the system that prevails in what I consider, and I think any student of municipal government will agree with me, the best governed city in the world—the City of Glasgow—which is in itself almost an exact copy in every particular of the municipal taxation that prevails throughout Great Britain, and not only throughout Great Britain, but almost entirely throughout every British colony except Canada. The statement that I am to make is an official one signed by the Assessment Commissioner of the City of Glasgow, whose acquaintance I have had the honour to have for a number of years past and who has very largely interested me in the unfair manner in which we in this country have been assessed when compared with the more equitable mode that has prevailed there. Their system entirely removes what has been objected to by every gentleman who has spoken, that is, the inquisitorial feature, and proceeds upon what I maintain is the correct system of local taxation—a tax based upon the service rendered by the municipality to the person taxed. I may say that the reputation of Mr. Henry, the Assessment Commissioner of Glasgow, is so great in Great Britain that the Committees of the House of Commons all take his valuation without any question upon any subject of the kind.

(Mr. ALLAN then read the documents in APPENDIX A, No. 4)

Mr. ALLAN: That, gentlemen, is the system that obtains not only in Great Britain but throughout the British colonies the wide world over except Ontario; and are we to remain in that condition here? Now, how fairly this has been done, I can prove to you by the statement made by Mr. Henry when I was in Glasgow not long since, in which he says that the number of annual schedules sent out—of which I have a copy here showing how simple they are—was about 200,000. Upon these annual assessment is made, one being sent to the tenant and the other to the owner. These must agree or else there would be evidence that something was wrong; but of 200,000 sent out in the City of Glasgow with the assessment fixed by the Assessor in the first instance there were only 125 appeals, and of that 125, 50 were settled to the satisfaction of the appellants by a personal conference with the Assessor, so that of the total number of 200,000 only 75 went before the Sessions to be adjudicated upon—which is a pretty positive proof that the system that prevails there is considered reasonably fair. Then in addition to that it gets rid entirely of the inquisitorial system that is felt to be productive of such bad results, as already quoted to you regarding the United States and in a milder form regarding our neighbouring City of Hamilton. You can see that the result of such a system upon the morals of our people is totally subversive of all that is good and true. In addition to that, as has been pointed out by Mr. Brock, how is the trade of any city to thrive under conditions hampering them to the extent it has been shown that we are hampered when compared with our competing cities of Montreal and Winnipeg? Another point that I do not think has been brought out is this: it has been assumed by each speaker that the amount of taxes one pays is simply the amount that is shown by the tax paper that is presented. I maintain that Mr. Brock as a large employer of labour pays more taxes than he has quoted, because in addition to what he pays directly, the employment that he gives to several hundred people, certainly a proportion of that goes into the taxes of the city; so that being placed at such a disadvantage, it should be recognized that such men are really a benefit, and should be encouraged accordingly by having their tax rate placed upon a more equitable basis.

The CHAIRMAN: Is there anyone else representing the Toronto Board of Trade?

Mr. KEMP: Mr. Elias Rogers was in the room but he told me he wanted to go to his office. He wanted to say he quite endorsed all that had been said by the other representatives of the Board of Trade, and moreover his views are briefly before you in the document which I handed to you. There are representatives of the Board of Trade here, though, who feel that the ground has been covered and they would not desire to take up the time unnecessarily.

The CHAIRMAN: I would like to ask you if you had any suggestion to make as to the precise improvement of the law or the change of the law which you think would meet the difficulties which you have laid before us, because that is one part of our duty, to suggest amendments to the law.

Mr. KEMP: If it is thought necessary by the civic officials to substitute for the personalty tax another form of personalty tax, the Board of Trade, representing the industrial and mercantile interests in the city, would be willing to have a tax based on rental values similar to that which existed in Montreal.

The CHAIRMAN: To be regarded as a business tax?

Mr. KEMP: To be regarded as a business tax, not to interfere in any way with the real estate or property taxation.

The CHAIRMAN: It would be similar to that in Glasgow and Montreal. Do I understand that that is the kind of tax that is applied in Montreal and Winnipeg?

Mr. KEMP: Winnipeg is very similar to that in Montreal. The difference between Winnipeg and Montreal is that the wholesale merchant is taxed on the floor space of his warehouse, three cents a square foot. The manufacturer pays 10 per cent. on the rental value of the premises occupied. The retail merchant pays 8¾ per cent. of the rental. The retailer in Montreal pays 7½ per cent. of the rental value.

The CHAIRMAN: Has your board considered that as one method that would be satisfactory?

Mr KEMP: Yes, the question has been discussed by them, and they took the ground that if it is necessary to have a tax to take the place of the personalty tax, but they are willing to take the Montreal system.

The CHAIRMAN: The Montreal system, which is different from that of Winnipeg?

Mr KEMP: A little. The Winnipeg system is a little complicated because it distinguishes between retail and wholesale and manufacturers.

The CHAIRMAN: And perhaps has not been in existence long enough to determine exactly its working?

Mr. KEMP: No, but I think complications will ultimately arise out of that system in Winnipeg.

The CHAIRMAN: The Montreal system has been in existence for considerable time?

Mr. KEMP: I think a hundred years.

The CHAIRMAN: The Commission may take it that the Montreal system is satisfactory?

Mr. KEMP: 7½ per cent. of the rental value as adjusted here would meet the views of those whom we represent here to-day, and would do away with all those vexatious questions that we speak of

Mr. WILKIE: You refer only to municipal taxation as regards cities. That same system would not apply to country places, I suppose, and farm property.

Mr. KEMP: No, we are referring to municipalities; we never considered the farm.

Mr. R J. FLEMING, Assessment Commissioner for Toronto: Municipalities have the power now to adopt that law.

Mr. CALDECOTT: I understand that 3% of the present business would represent more than the present system on personalty, but we say up to 7½% if need be.

Mr FLEMING: Municipalities have the right to adopt that tax if they feel disposed.

Mr. WILKIE: In lieu of the other?

Mr. FLEMING: Yes, sir.

Mr KEMP: There is a member of our Board of Trade here who resides in Brantford, Mr Cockshutt, if you would like to hear him.

Mr. W. F. COCKSHUTT (Brantford): Gentlemen of the Commission, I will not occupy your time more than a few moments with anything that I have to say.

The CHAIRMAN: We shall not hurry you, take all the time you desire.

Mr. COCKSHUTT: The ground has been very well covered by my colleagues of the Toronto Board of Trade. Of course, representing a town smaller than Toronto, the conditions are somewhat different; and though Mr. Caldecott endeavoured to show to a large extent, that additions were made in one direction, I have known of them in smaller places being made also in another direction. I have known a man returning too great an assessment. I wonder that some wholesale gentlemen who are giving credit on a considerable scale to the retailers have not discovered that point. I have known of merchants that have kept up their tax until they were in the hands of the bailiff They have been paying taxes sometimes on 10 or 12 thousand dollars when actually if their debts were paid they were worth less than nothing. This was done in order that the trade records might show that they have a pretty good standing, and that our wholesale concerns in Toronto

and Montreal and other large centres should not shut down upon them. So it shows the law may be evaded in both ways, but it has been evaded much more largely in the direction Mr. Caldecott stated. I think that the basis which our President, Mr. Kemp, has laid down would be a fair and equitable basis, that is rental value. How much that should be will be a matter to be calculated. In a city such as this,it might vary from the smaller towns and cities and the country districts ; but an equitable system would appear to be the rental value. Where the proprietor owns the premises he is in and it is not rented, a fair rental value could be calculated on the capital invested in the building and the ground. That would be, I think, a fair and equitable way. But it must present itself, I think, to the minds of every gentleman of the Commission that the present system is totally unjust and quite inequitable in its workings. Now, we could wish as business men that we could look our assessors in the face and tell them exactly what we are worth and what we should be assessed for ; but we know a man doing business on his own capital, say he has $20,000 put into goods, the proper amount he would pay on that whole $20,000 would be $400 taxation. His neighbour may be doing an equal business with an equal stock but when the assessor comes in he says, "This is the property of the merchants from whom I buy, I am not worth anything ;" so one man pays $400 and the other man pays nothing or next to nothing ; but that is the way the present Act works and it does not allow them to state that exactly the way we should. As Mr. Brock stated, no merchant wishes to misrepresent, and we do not wish to send it out to the world that merchants are practically deceiving the assessor or anyone else at the present time ; they are desiring to pay a fair and equitable assessment, we do not wish to avoid payment ; that is not the wish of the citizens of Toronto as represented by the Board of Trade ; it is not the wish of Brantford nor any other town, I think, to avoid a fair and equitable assessment. We know they are necessary but what we wish is that they may be levied in such a way that they cannot be successfully evaded to any great extent and that each man should pay in proportion to the value received. I think that is a fair way. Now, another thing that a merchant may do : He may have $20,000 employed in his business which may bring him a net revenue of $2,000 per annum, but under the present law if he returns his whole $20,000 and is assessed $400 his neighbor, a lawyer or a physician—and I know lawyers and physicians are honourable men—makes his $2,000 but he has nothing in sight except his books and his small office, and nothing in sight taxable, but he pays 2% on an income which would be $40, while the merchant with exactly the same income pays 2% on his principal, so that if he has made $2,000 in his business, when he gets his taxes paid he has $1,600 left for himself and family to spend, while the lawyer or physician, making exactly the same income, when he has his taxes paid he has some $1,960 for the benefit of himself and family. Therefore we say it is inequitable, and if a further tax were necessary I think after the rental value had been passed then the income tax having regard to what has been received is also a fair basis ; but I think, as has been shown by Mr. Caldecott, that a tax on rental value would be quite sufficient. I believe every merchant would be quite ready and willing to show his books and everything would be satisfactory, but no man knows exactly what he is worth ; he has certain book debts and certain debts outstanding, and many a merchant has been deceived into believing that he is worth much more than he is, or others may undervalue him. Now if it was on rental values or on incomes that would be definitely understood and no evasion could take place and I believe it would put a premium not on dishonesty but honesty, and I think that would be a fair and equitable way of regulating the matter so far as mercantile interests are concerned.

(Commission adjourned from one o'clock till 2 o'clock.)

The CHAIRMAN : I notice there are some other gentlemen wishing to address the Commission.

Mr. CHARLES E. STONE (Toronto) : I was waited upon last week by some members of the Single Tax Association, to ask me if I would come here to address you upon the subject to-day.

The CHAIRMAN : On the subject of single tax ?

Mr. STONE: No, sir, upon the subject that is before the Assessment Commission to-day —the most equitable method of assessing stock in trade and other property. I am connected as accountant with Michie & Co., one of the oldest established firms here, and I am desired to say that in so far as the firm is concerned, I endorse practically all that

has been said by the other members of the Board of Trade who addressed you this morning. For the rest, however, I merely desire to represent myself as a student of economic principles. It would appear to me that it is absolutely impossible to find an equitable method of assessing stock in trade in firms, and further, that there is no foundation in equity for assessing it at all, or taxing them as merchants, and also that it is absolutely impossible to assess fairly. In that respect I looked up the decisions and reports of quite a number of commissions that have been held in the United States. As those reports are the opinions of gentlemen who have sat on commissions, and particularly in the case of the Ohio Commission, those gentlemen were in favour of the personal property tax before they entered upon the commission, and who finally emerged from it absolutely condemning it, these reports are important, and add to the testimony of those who have been before you to day presenting local reasons and their own personal views why this tax is unjust and iniquitous. Justice Manstru, in the case of the Hibernia Savings and Loan Company vs. The Assessors, states as follows :

"If it were practicable to assess all the property in the state at the same moment of time, it would be very clear to every man that the assessment of a credit was an attempt to transfer to it a value elsewhere possessed. If a debtor were found to be the owner of $1,000 and is assessed for that sum, and his creditor be the owner of his note for $1 000 and is assessed for a like sum, and if the day after the visit of the assessor to the creditor the debtor would pay his note, it is clear that the same value has been twice taxed since the debtor has parted with his money and received only that which is certainly not taxable property in his hands, and which can never afterwards be assessed. When the debtor pays his debt he does not abstract or destroy any portion of the taxable property of the state. The aggregate of values remains the same." Chief Justice Wallace, in the same case, says : "Suppose, were such a thing possible, that the entire tax roll exhibited nothing but indebtedness, taxing under such circumstances would be, of course, wholly fanciful as having no actual basis for its exercise."

Mr. W. R. Cavell (Solicitor, Toronto) : The Retail Merchants' Association would like to state their views on the question that is before you to day. The merchants, not only of Toronto, but of Ontario, have what is called the Retail Merchants' Association. It has branch offices or agencies in all the counties of Ontario, and has a membership in Toronto fairly representing the mercantile community, I think between 800 and 900, so that I think it may fairly be said in introducing the members who are representing it here to day that they fairly represent the retail part of the mercantile community in the Province. They have suffered, I think, more possibly than any branch of the mercantile trade from what has been felt, the unjustness and unfairness of the present working of the assessment system. They have been agitating it for some years past, and I think it is possibly through their instrumentality that you gentlemen are meeting here to-day, largely so, as it was given in answer to the last measure that was brought before the Legislature. I would ask the President, Mr. W. B Rogers, to represent the Association before you.

Mr. W. B. Rogers : Mr Chairman and Gentlemen of the Commission, in the few remarks which I shall place before you to day, I shall deal principally with the question of taxation as regards the retail section of the community. I desire, however, to say that I agree very largely with what has been said by the President of the Board of Trade, Mr. Kemp, and I think it would be a misfortune if the recommendation were made to the Government on the lines of the gentlemen who have appeared before you this morning from Hamilton, recommending the course which they have, and I think it would place the wholesale and manufacturing houses not only of Toronto, but of Ontario, at a very serious disadvantage with this and other Provinces. We go further, however, and say that there may arise local conditions which require other treatment, and I have placed the views of the Association in the memorandum here which with your permission I will read

[Mr Rogers then read the following memorandum showing the position of the Retail Merchants' Association on municipal taxation of mercantile firms and corporations.]

"The Retail Merchants' Association, in placing their views before the commission, desire to express the opinion that in formulating a plan of business taxation as part of the general system of municipal taxation any principle adopted to be equitable must be

based on the ability of the merchant to pay taxes, or to put it in a different form according to the benefits which the mercantile classes derive from the municipality."

"They recognize also that in dealing with such an intricate question as that of municipal taxation no one plan will suit all the various interests involved, as for instance corporations operating under municipal franchises, stocks of banks, insurance and loan companies, incomes of professional and other citizens, business stocks, etc. And while advocating the plan for mercantile firms and corporations which they do, they may be accused of seeking class legislation, they desire to point out that any system which distinguishes between the various ways in which wealth is invested and applies different methods of assessment to them is just as open to the charge of class legislation as a distinction made between different classes in the mercantile community."

"They believe also that while the present system may have seemed to be most equitable at the time it was adopted, no assessment law can be framed to meet the requirements for all time, but that as changes take place in the economic conditions of the people so the laws governing taxation must be readjusted from time to time to meet new conditions, and because of this municipalities should have the option of putting in force such special legislation as may be necessary to meet the circumstances."

"In discussing the question of personalty taxation as now applied to stocks in trade of mercantile firms or corporations, the association were of one mind that the law as it now operates is decidedly unfair. That it places the honest merchant at a disadvantage, that it enables wealthy firms or corporations to so manipulate matters that they can escape a very large part of their personalty taxation, while the smaller merchant has to bear more than his share of the burden. As an illustration take the case of a large departmental store recently before the Court of Revision. The company own a very large amount of real estate and on the credit of this they borrow largely from the banks, and taking advantage of the exemption clause in the Act, they claim that out of an admitted stock of about $800,000, they are liable to assessment on less than $80,000, or less than one tenth of the amount of the stock they carry. The smaller merchant renting premises cannot safely carry stock to more than twice the amount of his capital and therefore pays five times as much proportionately as his large and wealthy neighbor, while on his realty (premises occupied) he pays equally as much relatively."

"The present law fails to reach one class of the mercantile community, that is agents of manufacturing concerns or wholesale houses. Some of these do a large trade in the municipality and frequently come into direct competition with the retail trade, and to this class a special tax should be applied."

"Looking, therefore, at the question from the standpoint of retail merchants who derive their trade very largely from the municipality in which they do business and who probably, therefore, owe to the municipality more than any other class of mercantile men, the association has come to the following conclusion. They believe:

1st. That a general principle should form the basis of all mercantile taxation except in the case of agents of manufacturers or wholesale houses, and

2nd. That as the retail trade is drawn largely from the municipality in which the merchants do business, and as from necessity these merchants occupy the most expensive property in the municipality and, therefore, pay a very large share of the revenue from taxation the law should make provision making it optional with the corporation to place special taxes on this class of business as the conditions of trade may demand."

"As regards the first, the association believes that the present system of taxing stocks in trade should be repealed, and in lieu thereof a business tax based on the rental value of the premises should be levied and that such tax should not exceed five per cent. of the rental value. The association realizes that the effect of this would be to decrease materially the taxation of wholesale houses and increase that on retailers if the law were to rest there, but they believe that if provision is made for a special tax which is set out fully further on, an equitable tax will be arrived at commensurate to each as to the benefits they derive from the community. As regards agents of wholesale or manufacturing houses a business tax would not reach them satisfactorily and they are of the opinion that a license graduated according to the number of lines handled would best meet the circumstances."

"How to meet the present conditions in retail trade and maintain the interests of the single line merchant as against those who are endeavouring to concentrate around them-

selves the retail trade of the country, is a question that has, within the past few years, agitated the minds of many of the best thinkers on this continent as well as on the continent of Europe."

"What the Standard Oil Company is to the small producer of coal oil, or the other great trusts to their smaller competitors, the departmental store is to the single line merchant in the retail trade."

"It is in the general interest of the municipality that the benefits accruing from doing business in the community should be distributed among the various merchants, but the methods of the departmental store make it almost impossible for a single line merchant to make a respectable living and meet their various obligations."

"The secretary of the association will point this out more fully in a memorandum he will present showing the effect of these stores on retail trade and business property."

"The association has taken the position that the measure of ability to pay taxes should be the measure of taxation."

"In our license law in the case of pedlers, a distinction is drawn between the man who carries a basket, pushes a hand cart, or drives a single or double horse wagon, and the amount of the license he has to pay progresses according to the measure of opportunity these various means give him of increasing his trade."

In the assessment of insurance companies, banks, street railways and other corporations the Ontario Legislature in their Revenue Bill recognize the same principle.

In its treatment of assessment of realty the city of Glasgow, Scotland, recognizes this principle also, and levies a lower rate on the man who occupies an inexpensive dwelling than on his more wealthy fellow citizen who occupies a better class of dwelling.

The Government of France recognizes the same principle and applies it in the form of a special tax for retail trade. In the case of any store employing more than ten persons a *per capita* tax is charged varying according to the size of the city, and progressing on every tenth employee. In addition to this where a store is used for the sale of different lines of goods, a tax is placed on each department varying from 200 francs to 10,000 francs per department according to the class of goods in the department.

In Berlin, Germany, the Prussian Diet has passed a bill the object of which is to adjust trade so that the possibility of concentrating the wealth of the retail trade in the hands of a few will be made as difficult as possible. The bill divides articles of retail trade into four categories, viz :

(1) Groceries, table delicacies, table waters, cigars, cigarettes, pharmaceutical goods, drugs, perfumes, etc.

(2) Yarns, twines, threads, passementaric goods, underclothing, stockings and other knitted goods, dry goods, clothing, cloaks, furs, bedding, furniture, carpets, curtains, etc.

(3) House and kitchen utensils, garden tools, stoves, glassware, porcelain, stoneware, furniture, carpet, curtains, etc.

(4) Silversmiths and goldsmiths' goods, jewellery, art goods, paper and goods from paper, books, music, arms, cycles, sporting goods, sewing machines, toys, optical, physical and medical instruments, etc , etc.

Any merchant handling goods in two or more of these classes must pay the tax, which is graduated and progressive according to the volume of sales. Any house doing a business in these classes whose sales do not reach 400,000 marks annually, is not liable to this tax.

Where the sales of such a business house range from

400,000	to	450,000	marks,	the tax is	4,000	marks	annually.
450 000	to	500 000	"	"	5,500	"	"
500 000	to	550,000	"	"	7,500	"	"
550,000	to	600 000	"	"	8,500	"	"
600,000	to	650,000	"	"	9,500	"	"
650 000	to	700,000	"	"	10,500	"	"
700,000	to	750,000	"	"	11,500	"	"
750 000	to	800,000	"	"	12,500	"	"
800,000	to	850,000	"	"	13,500	"	"
850 000	to	900 000	"	"	15,000	"	"
900,000	to	950 000	"	"	16,500	"	"
950,000	to	1,000,000	"	"	18,000	"	"

And for every additional sales of 100,000 marks 2,000 marks additional taxes.

The Retail Merchants' Association had a bill before the Legislature at the last session founded on somewhat similar lines, but the above measure overcomes the difficulties in the bill the association had had prepared, and they therefore urge it as the most equitable method proposed.

Mr. W. B. ROGERS : We think the five per cent. rental value is a maximum that should be chargeable. In Glasgow they have adopted the principle of assessing on realty at two different rates ; they assess the poor man at a lower rate than the wealthy man. In the case of merchants doing business in Paris, in France, where a number of lines are handled by one concern, they are chargeable with a tax on each department, graded according to the class of goods they handle in that department, and in addition to that they are also taxed so much *per capita* on the number of employees they have. Each category referred to in the memorandum embraces a number of lines, and the Prussian bill provides that a man doing business in any one category shall be assessed in the ordinary way, but if he branches out into the second or the third or the fourth categories, that he shall be taxed according to this bill, which recites that over and above four hundred thousand marks per annum he shall pay four thousand marks up to five hundred thousand marks, and it progresses until when it reaches one million marks the tax is eighteen thousand marks, and after that on every hundred thousand marks additional business a tax of two hundred thousand marks is chargeable against it. The retail merchants, I may say, had a bill before the Legislature at the last session framed somewhat on the same principle, but that bill was open to some objections which we recognized at the time, and on the advice of the Government we withdrew it as this Commission was about to be appointed ; but we believe that the bill as framed by the Prussian Diet will meet the circumstances that exist here, and therefore we desire as an association to urge upon our Commission the desirability of taking this into consideration, and if you can see our way to make a recommendation to the Government in favor of it.

Mr. E. M. TROWERN, Secretary Retail Merchants' Association : Mr. Chairman and Gentlemen of the Commission : The subject of taxation, which you have just heard explained by our President is one that we are very much interested in—so much so, as has been stated before, that two bills were brought before the House at the last Session, and they resolved them into the Commission ; and while we are favourable to the rental tax, which has been outlined by Mr. Rogers, the other feature of it, the development of the retail trade or centralizing of the retail trade would, if that tax alone was applied, without taking cognizance of this new development in trade, the departmental store—which is practically a combination of retail stores in one—if seven per cent. on the present rental value of the property were applied, it would turn the weight of the tax from the wholesale and manufacturing establishments over on to the retail store, which would be detrimental under the condition of the departmental store being in our midst. We have no objection to having, say, seven per cent. if we can get some provision whereby an extra tax or an extra license, as you may call it, can be applied to this system of departmental stores. I might state that this desire is general, not alone in the city of Toronto but throughout the Province. I will just read a few thoughts that were gathered together so as to concentrate it, and place it in this way.

(Mr. TROWERN then read from the document No. 5 in Appendix A the passages relating to taxation of departmental stores.)

Mr. TROWERN : The earning power of the retail merchant is his ability to pay. If you take away his earning power by centralizing it at any one house, you may place your tax at seven per cent. or five per cent. or anything else you like on the rental values, but if a man has a store and he does not get the business to pay any taxes you are simply dealing unfair with that man. If you were standing on the corner of King and Yonge streets to day there is only one dry goods store within a block where you could buy a paper of pins. The departmental stores have absorbed the whole dry goods trade of Toronto, and that is one of the reasons why the assessment of the dry goods stocks is so very low in Toronto ; there are very few dry goods stores left. If the details of this case could be laid before you they would demonstrate what I have said. I could illustrate a number of cases where goods have been advertised where honest merchants were paying taxes on their stocks in Toronto, especially the jewellry stores, where if a man makes one turn-over in a year he is doing a magnificent business, and where a man's reputation is a large part of his capital, where if his name is Jones and he stamps that on a piece of gold,

and you pick it up you say, "That is all right, Jones' name is there." These departmental stores are working entirely against him when they advertise the same class of goods, although they are not the same class of goods which he carries and which he stands personally behind. Then if we look into the work-rooms of these stores we find they are still destroying valuable labour. They are not satisfied with that, but they crush down almost to starvation wages, and we can bring evidence to show that young girls are working in those places now making shirts at 40 cents. a dozen. The departmental stores must not be confused with the ordinary trust, and that is one of the reasons why this subject is better known and better understood among the retail trade. Our Board of Trade and manufacturing associations and others are composed largely of the manufacturing and the wholesale firms, and they are looking at their difficulties from their own standpoint. We are looking at the matter from the standpoint of a retailer, and I think there are going to be good results from bringing different objects before this Commission, to have us all tell our own story. You take a boy who has cost the state $17 40, as I understand each child in Toronto costs us to educate. That boy starts out into life and he wants to find something to do. He learns the drug trade or he goes to the jewellry business, or even the dry goods business itself, or other lines of trade which require years of experience, and require money for those boys to understand their trade. That boy as soon as he learns his trade or business is immediately met with this vicious competition, which is not legitimate competition. We have no objection to a bootmaker developing and having a building ten stories high by 150 feet long or 150 feet wide; no objection to a jeweller growing as big as he can, or a dry goods merchant growing as big as he can, but we object to the system of having one store take capital and destroy all the other outlying businesses so as to control the trade, and then destroy the majority of the business property of the city of Toronto. We have here this afternoon a retail merchant who had spent his life in business and through his savings accumulated a competency which he invested in store property. Now he will tell you that his store property has depreciated so much, although he purchased it with the idea of having a competency in his old age, that it does not pay him one per cent. on the actual cost of the property after paying his taxes. This is a large subject and I do not know that you will be prepared to hear all the details of it. It runs along so closely to the subject of taxation that we dealt with that. As an Association, we would not consider for one moment having a business tax of five, two or three per cent. placed upon the retail business houses and stores of Toronto unless we had this additional tax. Now, if you will follow it out in a few instances; one wholesale house that is paying $2,900 on the amount of personalty that they have, would pay. under a seven per cent. rental tax, $205; and the retail merchant who is paying now $170 would pay $850; so that you see how it would just turn the matter over and throw the weight on to the retail merchant. A little store that is rented for $25 a month, $300 a year, at the highest rate mentioned here, seven per cent, would pay $21, which is a large tax for a small store, perhaps a little grocery store down below with living overhead, and they may not carry in that store more than two or three hundred dollars worth of goods. Now, if you give that man an opportunity to do business in his district, if you give the little grocery an opportunity of doing the trade that he should have around his neighborhood, and competition will keep prices right; or it has kept prices right as far as we can follow it out—if you give him that trade he could pay that $21, even as high as seven per cent; but if you centre the trade down into the large departmental stores,—according to the evidence brought before the Court of Revision, one concern is carrying a stock, according to their own figures, of $685,000, and yet it can only be assessed at $85,000 because they owe the balance, and yet it is reported that they are doing a business of seven or eight million dollars yearly. Now, this is not merely sentimental, the fact that the business houses absorb the trade of the city and Province, but I have before me thirty-seven petitions sent by all the large and influential merchants throughout thirty-seven towns of the Province, all realizing that this system of advertising bargains to-day and getting people to send their money, float their money right over the head of the municipality and send it down to Toronto—doing us no good because it is simply rolled up and sent to Europe, we do not get much benefit out of it, we get a few girls and boys at $4 a week and a few heads of departments, but I only find eight of them are paying on their income tax, all the rest don't get more than $700. This is a large question, and I will not take any more of your time to day with it, but if

there are any more features about it, we would be only too pleased to bring further evidence before you.

Mr. E. J GIBBARD (druggist, Toronto). Mr. Chairman and Gentlemen of the Commission :—I can do nothing more in taking up your time than to emphasize when has already been said to you by our president and secretary in connection with this matter. I was not here during all the speeches this morning of the gentlemen from the Board of Trade, but I was here when Mr. Kemp was speaking, and the thought that Mr. Trowern has touched on to-day struck me. The inequalities and injustice of the present system of assessment, and how it tends to dishonesty, has been admitted by all who have come before you to day, and that something new is wanted. When the suggestion was made of a rental value, the thought struck me, would it not have a tendency to do as Mr. Trowern has already said, shift the burden from one to the other? It is a well-known fact that in wholesaling, position or locality is not essential. With retailing it is imperative It is not necessary for the wholesaler or manufacturer to seek a location where the community can reach them ; a back street within the limits of the city would answer their purpose, or a side street with an entrance on a main street, and the rental value of that property would be very much lower than the rental of a site in the centre of the city. Take a property, we will say on the corner of Yonge and Temperance street, and you will find the rental value there would bring up the retail man's taxes and send the wholesale man's taxes down ; so that in any plan that is devised for the remedy of the evil which we all know to exist, and which we deplore, it will be necessary to be careful and see that this element of unfairness as between the classes of business is eliminated. Now, I admit that the rental value thus applied is fair as between individuals of the different classes ; but is it fair as between two classes? If we are to depend on that alone, I prefer to take the suggestion of our friend from Hamilton, Mr. MacKelcan, as his has the element of fairness if that is accepted alone. In the interests of the retail merchants there must come into your deliberations and recommendations something along the line suggested by Mr. Rogers, the plan that is in force in Germany for special licenses in these cases. The more carefully and closely you look into and study the changed conditions as brought about by these large departmental stores, the more you see the injury to the community which it has wrought. I know that the man who buys insists that he should be allowed to buy just where he will, and I do not know that we can license or control that by legislation, but at the same time the interests of the community at large have also to be considered, and it is extremely doubtful whether the benefit that is derived by the purchaser at those large places is at all commensurate with the amount of injury that is done to the community at large. We are not so sure that there is any benefit from purchasing of these people, but we do know that the city has been injured by millions of dollars by those institutions, and they have offered us nothing in return. The home has been invaded ; the business of the head of the home has been taken away ; the home circle has been broken up ; the son and the daughter have been forced to look for their living, and the head of the house has been forced to work for starvation wages because he cannot afford to take the staples of one line of business and make use of it to develop another line and therefore destroy the legitimate trade of a city like Toronto or a country like Ontario. I have nothing further to say except to emphasize the fact that any plan that may be suggested or recommended by this commission and accepted by the Legislature for the remedy of the evil that we are suffering from in the present system of assessment, must of necessity include in it some consideration for the retail merchant for what he is suffering from this new condition. No plan you can suggest will relieve the retail merchant unless this other is taken into consideration ; it cannot be, because it is not legitimate competition, it is an unfair advantage that they are taking of us and that we must have protection against.

Mr. ROWLAND, Toronto : I have been a retail merchant in an outside town, and like a great many more, having as I thought a competency I came into Toronto and put it into property like a great many more, and I invested with the greatest of care. Some property that I bought I even went down to the late Assessment Commissioner, Mr. Maughan, and asked his opinion about it. He said " Mr. Rowland, you are all right buying that property, it is good property, you cannot make a mistake in it ;" and what is the result? Through these departmental stores, instead of getting $40 or $45 a month I am glad to get $20 or $25 now, and sometimes cannot get them rented at that. That is

considerable of a depreciation, and I do not suppose if I went down to the Court of Revision I could get a corresponding reduction; they say it is only assessed the same as others along the street. My mistake was this—and I think you will admit it, gentlemen—if I came here and put my money out on mortgages at four and four and a half per cent, which I suppose I could, on gilt-edged security, then I could have simply put those mortgages in my cash box and given the assessor just what return I liked; but because I happened to buy property they go along and measure every foot and inch of it and I have got to pay. Now if it is right to assess a man that has mortgages simply on the income from those mortgages, why not assess me for the income on my property? Is there any justice in that kind of thing? You won't find much property sell in Toronto because of this system. I gave a large amount, and I gave it on the Assessment Commissioner's authority and advice, and paid for that property, and if I put it up for sale to-day I will guarantee I cannot get half the price. I suppose it is just as legitimate for a man to build a house for a person to live in as it is for a tailor to make a coat to wear.

Mr. WILKIE: Was that depreciation because of bad selection, or departmental stores?

Mr. ROWLAND: I believe in a great respect it is due to departmental stores. There is this about it; when I try to raise my rent the tenants say "we would not object, Mr. Rowland, to pay you $10 or $45 if we were doing the business we used to be doing." The rent is nothing to a man if he is doing the business, but if he is not doing the business he simply cannot pay it. Now that is where it affects it. I succeeded in business and made money and thought I could live comfortably, but the bottom dropped out. There is no doubt these departmental stores are affecting property, as you will see by that property. I can take you down to the property and you can see the tenants, and if you can get any more rent I would be very glad to get it; but it is these departmental stores. There is a great deal being said here about assessing merchants. I know all about that. They used to come in to assess me Well, the duty of a merchant is to owe all he can, have as little paid for as you can. I wonder this Board of Trade and these men don't see it. How are they going to get men to pay for their stocks quickly if they are going to be taxed for every cent they own? If it is right to assess a mortgage income why is it not right to assess the income from property? Why should I be assessed on thousands of dollars worth of property? I have got to put up nearly $150 a month before I can call a copper my own; I do not say it is all in Toronto; some is outside, but the bulk is here I do not see how I should be burdened that way whereas if I had simply put it in mortgages I would have had no taxes and no bother collecting rent or getting repairs done or anything at all about it. There has been a good deal said here about assessing stocks and all that, but after all there is only one right way of getting at it, and that is at the turn over rate, the business done. You do not want to go into a man's store and ask him how much he owes and all this, but simply, "What business have you done during the year?" The principle is admitted here in Toronto. How do we work our street railway? It is the turn-over. $500,000 a year I think it is at eight per cent on the turn over, but if it gets to a million dollars it is a little more, ten per cent. It is the turn-over exactly. In the Legislature your mines are done in the same way—so much taken out by the week of minerals, a thousand dollars, say, and you pay so much; you take out $2000 and you pay so much more. It is the same by the Dominion Parliament in the Yukon District—it is the turn-over there; and the only true way you can get at it, is the turn-over plan. There are hundreds of merchants in business that you could not get any stock if you went in there. For instance, go into an auctioneer's room; how much stock would you get in there? He would tell you, "This belong to Tom, Dick and Harry and you could not assess anything; yet that man does thousands of dollars of business. Go into the butcher and perhaps he has got $100 worth of meat there, and you have got nothing to assess and the assessor walks out, but the man does thousands of dollars worth of business. So go on to these different departments, these large men like Mr. Brock. You go still further and take these commission merchants. Mr. Brock has a beautiful warehouse, a credit to our city, we are proud of it; Gordon & McKay and John Macdonald & Co., they all have fine warehouses, and they employ help, they pay taxes there, they carry a large stock there, they have light and fuel and everything to keep their business going; and yet some of those agents come out here, that I have dealt with myself, say Arthur & Co., of Glasgow, and they go to a small property or they have got 7 x 9 rooms here, and

they do more business than anyone of those merchants; and how much do you get out of them by the assessor? Nothing. You can get nothing; and they take the very cream of the business. Our Board of Trade and wholesale men talked here this morning, but if they knew it they were simply picking up the crumbs that fall from the rich man's table; that is all they get. These men come out here—Arthur & Co. and Stewart McDonald, Howell & Sons—I am speaking about dry goods, that is my business, but other branches have the same, they have fancy goods and all these things, and these gentlemen come here and do business. We should want to know how much business they have done here Of course Mr. Douglas and some of his friends here will tell you that land is everything. I say that wealth in whatever shape it is should pay its fair share of taxes The chairman was horrified at twenty mills on the dollar. Why, if that was done there would be no twenty mills, the thing would be so small that we would not bother about it, and it would do away with all those unreasonable exemptions.

Mr. W. R. CAVELL: I want to impress on the Commission the feature that the merchants have agreed upon as their best remedy, and that is if a rental tax is adopted they wish to if possible agree on something with the rest of the mercantile community that will suit all parties; they sought if possible to do that without injuring their own interest, and it is to that end the rental tax has been thought most advisable provided the remedy can be given in the other line; that is, that if these departmental stores from which they have suffered for some years past, will have a tax put on them, the same as the German Government has put on, that will be satisfactory to the retail merchants without injuring them the same as has been done in St. Louis. There was a Bill passed by the State of Missouri somewhat on the same lines, but unfortunately, through some technicality it was thrown out as being contrary to some principle of the constitution or something of that kind, not on the merits of the measure by any means. Again, it has been treated the same way in Michigan. It has been on a somewhat different plan in France, and in other countries; it has been tried and found to work satisfactorily. That is the remedy they feel will get over the present difficulty. The injustice has been very strongly put for them by the merchants who have been here before you, and I do not wish to dwell on that. There have been some very glaring cases of it in Toronto. It was mentioned where a large amount of stock has been carried with a very small return to the assessor, and the suggestion of Mr. MacKelcan who says, "tax everything in sight," will be found a great difficulty in those large stores. You cannot get any man that will go in and assess that stock; he is not an expert in any one line. If he is an expert in any one line he cannot form a very close estimate of it unless he handles the goods, so that you do not get out of the inquisitorial part of the matter in that way; the same difficulty would still arise. So that we submit that something in the nature of a turn over tax is the most equitable and just way of taxing all, so that when a man turns his stock over two and three and four times a year, as it has been known on very good authority that they do, they pay taxes according to the business done, according to the sales made; so that when a man turns over his goods only once a year he is not or should not be required to pay as large a tax although he carries the same amount of goods as the man who turns it over four or five times a year at the same profit. It may be urged to you that there is very small profit possibly as regards those large stores, but I can show you evidence put in recently before the County Court Judge in appeals showing that the average profit of one of our departmental stores this last year was over an average of thirty-three per cent., so that there has not been any small profit there. Some of the lines realize a great deal more than that. some as them have gone down as low as twenty-seven and twenty-five, but the average is about thirty-three and a third per cent.

The CHAIRMAN: Is that the entire turn-over or the capital invested?

Mr. CAVELL: That is the advance of the selling price over the cost price of the goods, the entire bulk of the goods sold—the gross profit. There I say is the feature that they are seeking to impress upon the Commission, and the grievances are extending over some years.

The CHAIRMAN: This Association has had two bills before the Legislature? (*a*)

Mr. CAVELL: Yes.

The CHAIRMAN: Do these bills represent your view of the law?

Mr. CAVELL: The bills referred to are the Turn-Over Tax Bill. I can put those

(*a*) See No. 6 in Appendix A.

bills in. There is one feature regarding the departmental stores, perhaps not strictly under the head of taxation, though it is in a sense, and that is their mode of advertising. They advertise in a way that is misleading You will find an advertisement "our regular price of a certain article is so much ; on a certain day so much less." The merchants have seen certain members of the public who have been taken in by them, they came under my notice.

The CHAIRMAN : That is hardly fair, to hear statements of that kind in the absence of those who are concerned. It has no direct bearing on the question

I understand there is a deputation from the Board of Trade of Hamilton present, desiring to address the Commission, and we shall now be happy to hear from them. Perhaps Mr. Knox would be the first speaker.

Mr. JOHN KNOX : As representing this Hamilton deputation from the Board of Trade on this Assessment Commission, I would simply call your attention to the fact that the Hamilton Board of Trade petition as follows :

"The Assessment Commission was appointed at the requests of the Boards of Trade who were objecting to further patch-work legislation in connection with taxation, and they petitioned the Government to recognize the glaring inequalities of the present system of taxation and the desirability of having the Assessment Act revised and made conformable to the present conditions of business and to provide legislation admitting of a system of taxation as nearly equitable as possible.

"The Ontario Assessment Act is attacked on similar grounds to that obtained in Scotland over fifty years ago where they were working under what was then termed, "Means and Subsistence" the equivalent here being "Personalty Assessment."

We claim that the theory of taxation is that the incidence of a tax should be the most equitable that can be advised. From the reports which I have perused of the two former Assessment Commissions, Ontario originally followed early American crude methods of collecting taxes, where, in the new country, the practice was to tax everything in sight, which was then principally real estate. With the development of the country new conditions have arisen.

"Britain abandoned similar methods over fifty years ago, and the Australian Colonies have later followed British practice after due investigation.

"While British practice is to assess the clear or net revenue on income from a house, store, business or profession and this incidence is fair because the landowner, professional man, merchant or trader, clerk or employee, is on the same basis—conditioned only by the result of his energy, capital, ambition or surroundings, to-day the merchant is assessed on the basis of his capital, and when the Commissioners consider that in the item of school rates he pays for the education of his children a far higher ratio than any other person in the community. In other words his contribution relieves someone else of their fair share of the school rates. Other inequalities could be instanced but this is enough.

"Another objection to the personal property tax is that the merchant needs and seeks credit, and the financially weak man suffers the impositions of the Assessor rather than expose his business and pays higher taxes at the creditor's expense from whom he is always seeking credit. The professional man who is assessed on his income is entirely different. He needs no credit except in the small way for household supplies.

"We claim that the contributions in the shape of taxes should be conditioned on the benefits received from the municipality as nearly equal as they can be devised.

"What in Scotland is called the Valuation Act, corresponds to our Assessment Act. The present scheme there is contained in 17 and 18 Victoria, chapter 91, passed 10th August, 1854, an Act for the valuation of Lands and Heritages, in Scotland. The only amendment that seems to have arisen in their assessment is contained in 30 and 31 Victoria, chapter 80, passed 12th August, 1867."

I would refer you to Guthrie Smith's Digest of the Law of Scotland for an interesting discussion of the principles which govern the basis of the Valuation Act. The reports of the previous Ontario Commissions also furnish valuable historic information.

I suggest that if income was taxed, a copy of the British forms ought to be procured. Their profits and income are based on the average of the last three preceding years which seems equitable. Their income tax rolls, however, are not semi public as are those relating to real estate. A skilled, confidential, highly competent officer supervises the income for each county.

The objection raised to an income tax is its inquisitorial nature and publicity. Such an official as I have indicated makes it for general purposes private and with free use of Bradstreet's and Dun's Agencies and other sources it should not be difficult for level-headed men to strike a fair income tax roll for the cities in the Province.

We would be willing to have a business tax based on the rental value of the premises similar to what obtains in Quebec but this would require to be graduated, as the merchant is compelled to occupy the most desirable real estate in every town and the scheme be such that the small retailer who burns coal oil lamps would not be crowded out by the merchant with large plate glass windows and electric light.

We recognize in looking over these things that the Ontario Assessment Act has been largely culled from the worst practices in the United States. I think you will find that verified if you read the previous commissions that have sat on this Assessment Act. I have been over them several times. The principle has been too much to tax everything in sight. The tax on personalty, on stock in trade, which is most in evidence, is manifestly unfair. Stock in trade does not show value, all that a man owns. If he has a stock in trade he is not necessarily the owner of it; he has generally bought it on credit. One simple instance to show how a merchant who pays on his personal property is taxed inequitably is to bring before you the school tax. The merchant pays a far higher rate for the education of his children than what the professional man or any other man in business does. He pays out of all proportion for the police protection, for the fire protection, and for other things; but especially will you find a striking instance in the school rates that the merchant pays as compared with the professional man or the man who is living on his income. Another objection that I would bring forward against the personalty tax is that the merchant who is in business buys goods on credit, he has to get credit, it is a necessity that he should be in good commercial standing, he exhibits the figures of the assessor and pays on the stock of goods that he has for the mere sake in many cases of keeping up his reputation. The professional man, the man who pays on his income, does not require credit; he is quite prepared to pay on his income, and he does not require credit except from his tailor and his butcher and his baker, whereas the merchant requires to have a standing credit, and accepts the assessor's figures rather than discuss them. We have had instances in Hamilton where people have been paying on a $30,000 or $40,000 assessment, and yet the following year they compromised with their creditors. That is an instance of how the tax as it is at present levied operates. I would simply say that we believe that the incidence of taxation should be the most equitable that could be devised. We want to see the system altered from what it is now. We would be perfectly willing to have a business tax based on the valuation of the premises, or we would be willing to pay the same as the professional man pays on his income. We admit that a tax based on the value of the premises is unfair to a number of business men, because the business man necessarily occupies the highest-priced stores, the highest-valued property, and in that way he pays more than he should do; but we would leave it with the Commission to devise a means whereby an equitable incidence for taxation could be laid down. We do not want anyone to pay more than he ought. We do not want anyone to pay more than they should. We do not want to evade our just taxes: we want to pay our school rates just the same as any other citizen does; but we do not want to pay on our capital as we do now. I do not know that I need to particularize that further.

Mr. GILLARD (Hamilton): Mr. Knox has expressed the views of the Board of Trade on this matter of a personalty tax very fully, which I endorse. I think, I might say safely, that if the plan adopted in Great Britain and Scotland should not be seen to work fairly we would accept I think the alternative of the Quebec plan of a business tax. For my part, that was my first idea, to give us a business tax as now working I believe in the Province of Quebec. I have not gone into the details of that; I have not seen it, but I know it generally and I have no doubt this Commission have already probably looked it over. I will say further, as a merchant, that it appears to me very unfair that they should be taxed upon the capital employed to earn their living. You all must know that there are very many years when merchants make no profit whatever, probably lose money. I know very many cases where people have been paying municipal taxes to the extent of two per cent., when as a matter of fact they have not been earning anything. Of course they are subject to all the ups and downs of trade, the deprecia-

tions, etc., and it is impossible to tax any merchant fairly under these conditions. The feeling is with us that we are quite prepared and would be quite willing to pay on an income on the money earned from the capital employed, as a professional man or any other man. We want to pay our full share of the taxes, but we do not want to be taxed upon the capital employed to earn our living. It is not the intent or purpose for one man to be asked to pay more taxes than the other all conditions being the same. I will touch, if I may be permitted for a moment, what has been argued here to-day, that a tax upon the turn over might be a proper thing to do. That appears to me to be an impossibility for many reasons, for one in particular, that one class of goods will earn a very large percentage of profit and another a very small one. Take a jeweller and other classes of business, take dry goods as against groceries. I happen to be a grocer and know what it is to make small profits. I may tell you in confidence that I have sometimes turned over my goods and I have not made sufficient to pay the municipal taxes upon it. I have known people turn over a million dollars a year and have not cleared up at the wind-up two per cent. I say, take the average of the wholesale grocery trade to day, if charged interest and expenses of running their business it would not net over two per cent. Well, gentlemen, that looks very small. It is a fact, taking it all round, that the wholesale grocery trade in Canada, I doubt very much indeed, clear up, after charging all expenses and loss and everything, over two per cent. That has to be considered. Now, the jeweller will, probably, make a great deal more than that. And then to say that you can assess a man on his turn-over seems to me to be the most insane idea—excuse me, gentlemen, for using the strong language. It comes back to the fact that we shou'd all be taxed on an income, and have officers if you like to inspect your books, accountants and sworn men, and swear every merchant as to his returns. If they are not satisfied with that examination of your books, let them assess you and collect your taxes. There is one question that is the departmental stores, which I think the retailers in Toronto have some cause for complaint, and some special legislation should be arrived at whereby these men should not be allowed to destroy the property and the trade of citizens as they are doing to-day. I know for myself it does concern me very closely. I, as a merchant doing business all over the country, go to the North-West, up to British Columbia, go anywhere, and you will find these circulars are being sent out and the money is pouring into these stores and destroying the trade of my customers in every town and village in this country—(Hear, hear)

The CHAIRMAN: Mr. Gillard, the point has been made that the kind of taxes that you would approve of would discriminate against the retail storekeeper, would be injurious to him; what do you say to that?

Mr GILLARD: I cannot see why it should. I think a man doing business in an expensive store down town would not pay that unless his business would warrant it. I would also feel—I will not touch on the land tax—that the income should be upon the return from that store property, not upon the present principle. However, I am not here to discuss the property part of it, but I do not see why it should work to the disadvantage of the retailer. He only pays on the basis of his rental. If you like, make a slight difference between the retail and wholesale tax. I believe, though, in basing it thoroughly on the rental of the premises; then it might be considered whether the retailer turning over a smaller amount might not pay a little less tax than the wholesaler on that basis at any rate.

Mr. TURNER (Hamilton): I think the matter has been gone into very fully by Mr. Knox and Mr. Gillard. We just came together so that we could support one another in the matter. I thoroughly agree with the position of Mr. Knox that taxation should be based on income in some way or another; that we should not have to pay on the capital that we hold. I do not think that there is any of us desire to shirk our taxes at all. We only want to pay our fair share of the taxes, and would be quite willing to pay that if we saw that our neighbours were paying their fair share of the taxes, and I think that could be arrived at, as Mr Gillard suggested, by having either a special accountant or sworn accountant or have the matter come before the County Judge in some way or another, so that he could appoint an accountant to go into the books quietly. I think it is very unfair that anybody's private business should be brought before the Court of Revision where they are open to the public, and their private business affairs can be trailed before the public at all; but if it can be done by the matter being carried out as was suggested

by one of the gentlemen here, they should have sworn statements as to income in the first place, and then if you are found wrong, or if there was any complaint made, that could be brought before the County Judge or some sworn accountant could be put in to examine the books and see whether it was correct or not. I think if that was done that we would save a great deal of unpleasant feeling, but I do not think anybody likes to have their business affairs brought up before the ordinary Court of Revision, where every person who has no right to know about your private affairs is apt to hear what you have got to say about them.

Mr. E. M. TROWERN: I regard the statement that has been made by Mr. Gillard referring to the turn-over tax as an insane tax, as a statement made without investigation, and I was pleased to hear that he followed it up by stating that the departmental stores injure his trade throughout the Province. Now, this turn-over tax that we wish to have applied to the departmental store is not the tax that we wish applied to the retail or wholesale merchants. The remedy that we suggest for the departmental store evils Mr. Gillard mentioned, is the turn-over tax the same as it applies in Germany. The German Emperor took a great deal of pains and trouble to hunt up the different systems of taxation in different parts of the world, and I may even say he got our turn-over tax as originally arranged along with other systems they had in Chicago and Missouri, and prepared his bill on those lines just for that purpose; so that we have a precedent to show that if the plan that we purpose applying, namely, a business tax of three or four or five per cent. rental—just the amount necessary to raise the tax that we are getting now—that would be applied to the departmental stores, to the retail merchants, the wholesale merchants and all equally; but when it came to a merchant carrying more than two or three classes of goods, as we will have set out in the schedule to hand to you, showing the classes of goods, after they get outside of a group—we have grouped the classes of trade—for instance, we would not have Mr. Gillard's business, the grocery business, mixed in with pots and pans and that sort of thing, that is outside of his line altogether—but we group them, and then when they do a certain business their taxes would be a certain amount. Then as the business developed and got larger the tax would be a turn-over tax and would keep increasing. Now that system can hardly be called an insane system, because it is now applied to the Toronto Street Railway Company; it is applied now by the present Government to the succession duty, as I understand, and it is looked upon as a fair system with corporations. It is our plan briefly to have a rental tax applied, with this additional turn over tax after the business develops into a certain amount. I rise to explain that so that our friend from Hamilton will not go away with a wrong impression that we down here do not know what we want, and that it won't work. It is working to-day in Germany, one of the best governed countries in the world, to look after their wholesale and retail trade. There was another remark made this morning by one of the members of the Board of Trade. They say that the system of taxation in Toronto at present is driving the wholesale merchants out of the city. We say it is the vicious system of departmental stores that is not only destroying the manufacturing trade of this city, but also the wholesale trade of this city, and instead of having warehouses on Wellington St. and Front St. and other places that would enter into competition with the present places, they have been wiped out; and I would not be surprised to see a lot of other wholesale houses follow suit if this system of departmental stores is not put a stop to, and we think this is a fair way of doing it. We simply ask that the men that are doing all the business should pay all the taxation.

Mr. GILLARD: I am very glad to hear that I was mistaken in the way I took this gentleman's words. I am glad to know that he does not apply this turnover tax to all trades. Of course it would never work as you can see. It would be an impossibility to say what amount each trade would pay, and, of course, if you charge it the same all round would drive people out of business; but I think there should be some legislation on departmental stores. It is a difficult question to deal with, but I can see that that sort of business is destroying the trade all round, not only of this town but in every town and city in Canada, and I should like you on this Commission to devise some means, not too harsh, to deal with this question, to allow the individual to get back into the business he has been driven out of, and to allow others to get back into business; otherwise it will dwindle down into two or three large concerns and all the business of the small stores will be driven out and nobody will take them.

Mr. STEPHEN GRANT, (Assessment Commissioner, London) : My opinion is that every person, every corporation, should pay taxes on everything they are really worth. Until very recently I had an idea that the mortgagee and mortgagor should pay taxes in proportion to their interest in the property, but finding after thinking over the matter that that would not work—there are so many people outside the municipality holding mortgages that you would have to let go free in that case—I thought it rather better not to advance that opinion but to continue assessing property as I argued yesterday, at what it was fairly worth. Now Your Lordship has an offset to that ; I am in favour of Mr. MacKelcan's opinion that the personal property be assessed on sight the same as real estate. Gentlemen from the Board of Trade this morning advanced the idea of this two per cent. rate. Well now, we want no such thing as a two per cent rate at all ; for applying to my own city the personal property clause stated in the Statute, and adding "Goods where they may be found," I say without fear that I can reduce the taxes of our city from twenty-four mills now as they stand to eight mills on the dollar. That would not hurt anybody ; it will set the real estate booming, and people will borrow money from the banks to build houses, and everything will go all right and it won't hurt anybody. Now the theory as advanced is recognized by the laws of the country after a man is dead ; I don't see why it should not be recognized when the man is living—that every man should pay the taxes on what he is worth, not when he is dead. Well now, if a man is paying a tax of $400 a year in a drygoods store, the next thing you will have is a deputation before you or before the members of Parliament to know why a man with $10,000 should pay $400 a year taxes while a man with only $1000 is paying the same, so you are not giving equity in taxation at all. This business tax will catch some that we don't catch now ; it may do that. We have fire insurance companies that are not paying in proportion to what we expend for their benefit. Although I advance these ideas I wish the Commission to thoroughly understand that I am merely advancing them as an official in an official capacity. I have an experience of twenty years and my entire sympathy is with the real estate owner. Poverty cannot come here to defend itself, and when there is any word of assessing capital we find these corridors full of influential gentlemen working against the assessment of capital in the country, which should be frowned down upon. (Hear hear) I desire to mention the idea of chartered banks in the country going entirely free from taxation. They seem to have the best chance of anybody. We wish them well are glad they do well, but I think they should pay some business tax, having the wealth of the municipality to a great extent deposited with them, let out for their own use and benefit and making money by doing so. It is our money that should be assessed for the municipality.

Mr. KEMP : Does the city of London not exempt certain industries there from taxation to a certain degree ?

Mr. GRANT : Yes.

Mr KEMP : Then they do not agree with your theory. (Laughter.)

Mr. GRANT : That is old, you know.

Mr. KEMP : I just wanted to point out that there were certain industries that were exempt.

Mr. GRANT : Your Honour refused to take up the question of exemption a few minutes ago, and I did not touch the question of exemption. (Laughter)

Mr. FULLERTON : Mr. Chairman, with the permission of the Board I desire to say a few words representing the views of the Assessment Commissioner and myself in reference to the question that has been discussed. We desire to entirely dissent from the propositions that have been advanced by Mr. MacKelcan on behalf of the Municipal Association ; and I desire to point out to you here what I think is perhaps an important element, that the Municipal Association is very largely composed of mayors and assessment commissioners—I am not aware that there is one merchant among them all. If I am in error in that I am willing to stand to be corrected ; but it is largely composed of men who represent other classes of people, and therefore they perhaps are seeking for something to assess, seeking to reach out I think beyond perhaps what is legitimate. On the other hand we think that the Board of Trade have been seeking to escape from something that is legitimate, and we are of opinion that the present Act in this particular is very nearly what is right, that it gives us what the man is worth, what he actually himself owns, what his own wealth is ; and giving us that, that the Act as it stands at present is the correct criterion of what a man should be assessed at. I think it was Mr.

Knox of Hamilton who made what struck me as in its way a strong illustration. He said, "The doctor is assessed on his income, why should not the merchant be assessed on his income?" But if I am not mistaken—and I think I am not—the doctor is assessed on all he is worth and then assessed on his income. Why should the doctor be assessed on his house, on his lands, on his buildings, on other things that he has, while the merchant has invested all that he owns in his business, and the doctor be assessed on his income besides, and the merchant alone assessed on his income? It did seem to me that the illustration proved the position that I am desiring to take, that both men should be assessed on what they are worth. Now just for a moment let us see what the merchant is worth. It occurs to me that it is unfair to go into a man's store to day and say, "I find in that store $200,000 worth of goods, and therfore this man is worth $200,000, and we will assess him on that," because it is altogether likely that during the year, not $200,000 but a million dollars worth of goods will pass through that store, and every dollar's worth during the year that passes through the store is as much his property as the $200,000 you find there at a particular time; and if the criterion that Mr. MacKelcan has advocated is to be taken, then the turn-over tax, or rather going into his books and finding out how much he has bought during the year, would be the criterion to show what he is worth. I do not think that would be correct. It does not seem to be reasonable; and when you go into a store and find $200,000 worth there you have got to bear this in mind in this case—and I thought it was well illustrated by one of the gentlemen who pointed to our carrying cereals and grain and cattle and produce that passes through, that is not assessed at warehouses or where it is passing through, that is in transitu in a way; so in the same way the goods in a store are in transitu; they are coming from Europe, from the manufacturer, they are passing through that store, they are being distributed. The man who is there has invested in that $10,000, $20,000, $50,000; that is what he is worth; that is his property; that is what we submit he ought to pay on. And now to show you that that has not been oppressive in the city of Toronto, we have had on the statute book for a great number of years a business tax, and in the time of the present Assessment Commissioner and myself that tax has not been taken advantage of. It is section 36 of the Act. I think it is therefore reasonable to say that the present assessment, so far as the merchants are concerned, has not been to them a very great grievance or there would have been some application by them to change it up to the present time; and the Assessment Commissioner whispers in my ear that instead of an application being made to the Council of the city to put it into force or to change the law as it has been enforced, that there has been no complaint at all concerning it, and that the present law has worked properly, and it seems to me the reason of that is that it has assessed the man on the actual amount of money he had invested in the business, that is the value of the goods there less the amount that he owes upon them. I do think the clause might be changed—I am not prepared at the moment to suggest a wording—so as to make it that the amount that he owes on these particular goods, on this stock, should be made more certain, because I believe there are cases where a difference in the bank account, an indebtedness in the bank has been used and argued and alleged to be an indebtedness on the goods, where we have doubts that it is. That might be changed; but otherwise we say what a man is worth is the difference between the stock that he has there and what he owes on that stock so far as that is concerned, and that when you assess him on that you come pretty near what is right.

Mr. JUSTICE MACMAHON: No business man can do that until the municipality has acted under a by-law.

Mr. FULLERTON: He might object or he might ask that to be put in force, or he might say, "You have a proper way of taxing us and you are taxing us improperly."

Mr. JUSTICE MACMAHON: What they could say is this, that that is an equitable way of dealing with this complex question, and if the municipality passed a by-law, very well, do so, and they will take advantage of it; they could say that.

Mr. FULLERTON: Long ago the Legislature placed them in the position of saying that. They have not said it. They have not requested the municipality to take that position, and, therefore, am I not justified in saying that they have been content up to the present time with the law as it is? They object, I think very properly, to being assessed on all that passes through their store, or to be assessed on all that happens at a particular time to be in their store, because it does not represent what they have really

invested in the business, and what they ought to be, as we contend, assessed upon. Now the second ground Mr. MacKelcan urged, and that has been urged by a number of other speakers, is that because some merchants—to put it in my own way—because some merchants are liars we should change the mode of assessing them; because some men state what is untrue, therefore adopt some method that men cannot lie under. Now I do not believe that that is a good ground for changing a proper method of taxation. It may be a good ground for some changes along this line; a man who puts in a false statement might be made subject to amercement for so doing, or if it goes further and a man puts in an affidavit, besides amercement there is punishment for perjury. That that will cure everything I do not think is so, but it can be made so that it will probably cure a good deal; and it does seem to me that the present system, working well as we contend, in assessing men on their means, giving us a fair return, bringing in a reasonable amount of property along these lines, should not be lightly disturbed. I think I could not agree with the what seemed to me very harsh words that fell from Mr. Allan concerning the system of taxation that at present exists. I do not think there are any of us that agree that the men who have been dealing in the past with taxation in this country have not been careful, thoughtful, able, strong men who were desirous of getting at what was reasonable and what was fair. (Hear, hear.) They have been from time to time considering this question and have arrived at the result that is before you to-day. I submit that the result is a reasonable one in this particular, and that before that result is changed very strong and cogent reasons should be laid before you to cause you to abandon that system and adopt either one or the other that have been urged with a great deal of force and with equal vigor from opposite sides upon this commission to day. We have found the present system working reasonably well here, and we submit that it should remain just as it is. I will not attempt to follow further the arguments that have been advanced pro and con; I merely sum them up in this way.

The CHAIRMAN: Have you anything to say to the position which has been relied upon so strongly that our present system works unfavourably as between the Province of Ontario and Manitoba and Quebec—that the tendency of the present system is to drive business—such business as has thriven in Toronto up to the present time—to Montreal and to Winnipeg?

Mr. FULLERTON: The assessment commissioner desires to say a word on that, and with the permission of the board I will let him answer that with his experience.

Mr R. J. FLEMING (Assessment Commissioner, Toronto): Mr. Chairman, I do not think that there is anything in that. The case that was given to you this morning of Mr. Brock was an exceptional one. Mr. Brock stated that he was worth $100,000 when the assessor went to his place, and of course the assessor had nothing to do but put that down. I understand the law in this Province is that wealth is the basis of taxation. On that ground——

The CHAIRMAN: Whether it should be or not is one of the questions which we have before us.

Mr. FLEMING: Exactly. On that ground Mr. Brock was assessed for what he said that he was worth. Now while it is an apparent injustice to him, at the same time it is a great advantage to some other persons in possibly the same line of trade, although Mr. Brock may be at a disadvantage against them. For instance, I know a gentleman in Toronto who until this last year was doing practically as large a business, I would say off-hand, possibly as large a business as Mr. Brock, and who is not paying on one dollar of personal property on the ground that he owes for it all. Now that man is better off in the City of Toronto than he would be in the City of Montreal, but of course Mr. Brock is at a disadvantage with him; but then you have to change the system, that is you have to change the basis if you are going to put these two gentlemen upon an equal footing. Now so far as we are concerned the statement has been made broadly that the system of taxation in Quebec works to the advantage of Montreal as against the City of Toronto, I know of no specific case where that has occurred. Such a case has never been called to our attention. The broad statement is made. We have practically no complaint by merchants of Toronto against their taxation. I may say to you frankly that I do not know that we strain the law to put the outside assessment upon these gentlemen that we can. On the contrary, possibly the other way; but I do not think that the law as it stands works in favour of Montreal—at least we have no specific cases of it at all. If you

are going to make any change I think the change suggested by Mr. MacKelcan would work tremendous injury. I think that the change suggested by the president of the Board of Trade would be changing the basis entirely, and it would be shifting the burden from the wholesale men and from the wealthier men of Toronto and it would be putting it over upon the poorer people who are doing business in the City of Toronto, and that is the reason why the City of Toronto has not taken advantage of and adopted the business tax. The Board of Trade some few years ago petitioned the Council to do that, and the question was gone into.

The CHAIRMAN: What petition was that?

Mr. FLEMING: I think it was from the Board of Trade, that is my recollection.

The CHAIRMAN: For what?

Mr. FLEMING: To adopt the business tax.

The CHAIRMAN: There was such an application?

Mr. FLEMING: Yes, and it was gone into very fully there and it was shown that the effect of the change was going to be to relieve the wholesale men and the men of wealth of the city, and put it over upon the people who were not in as good circumstances, and that is the reason why the Council would not adopt it.

The CHAIRMAN: The present law then deals hardly on the men of capital?

Mr. FLEMING: On his wealth.

The CHAIRMAN: But encourages the men without capital to go into large business.

Mr. FLEMING: Well I don't know that I would say that, that it encourages him to go into business.

The CHAIRMAN: The man who is carrying on business without capital pays nothing.

Mr. FLEMING: Pays nothing, but then it is just possible that if those goods came from the mill, say at Aylmer, or some other place, the man may be taxed there for his wealth that he has down in the store there. The fact that the goods escape taxation in some store in the City of Toronto is not proof that the goods escape taxation in some other place.

The CHAIRMAN: It must be so, I should think, if they are lying there on commission and belong to the other man in the country.

Mr. FLEMING: They may be assessed there.

The CHAIRMAN: Yes, but if they are bought by the man here, there is . . .

Mr. FLEMING: If he pays.

The CHAIRMAN: Not if he owes for them.

Mr. FLEMING: What about the man that holds a note for them?

The CHAIRMAN: The note may or may not be taxed.

Mr. FLEMING: Of course there is this side of it, that these goods would have come from some other place in the Province; they may have come from outside the Province to-day and may be paying no taxes at all or may be paying a tax there, but I would respectfully suggest that if any change is going to be made from the present law, so far as we are concerned in the city of Toronto, while it is not everything that we would like, we think it is more advantageous and likely to work less injury than anything that would likely be got; but if any change is to be made then the rental value and the business tax is infinitely ahead of the other.

Mr. WILKIE: Ahead of which?

Mr. FLEMING: Better than assessing all goods in sight or better than exempting them all.

The CHAIRMAN: You mean more convenient?

Mr. FLEMING: Yes, more convenient and more just.

Mr. WILKIE: That is what Mr. Kemp contended for.

Mr. FLEMING: I say if you are going to make a change.

Mr. FULLERTON: Mr. Kemp's contention as against Mr. MacKelcan's we contend is altogether the best.

Mr. FLEMING: If you are going to adopt the business tax and the rental tax, why not apply it to the private house? Why not instead of assessing property at what it would bring to-day upon the market, or in the words of the Act, why not assess it on its productive value, that is upon the rent of it?

The CHAIRMAN: I suppose the best evidence of value is the rent.

Mr. WILKIE: But you also reduced the taxation on other similar manufactures?

Mr. FLEMING: No sir, we did not do it, the Legislature stepped in and put its gentle arms of protection around the other men, and I think it did a very great injustice to the City of Toronto. Now, the other thing we did for the Sunlight Soap Co. was to agree to fix up the roads around their buildings, but they were common to all the property, it was not for their special benefit, every person got the advantage of it; and we gave them a piece of land of perhaps 125 feet frontage and 300 or 400 feet long between the line of their property and the Don; that was the extent, so far as I remember, of the concessions Yes, there was another one; we agreed to keep the channel of the Don open to the original depth that we had dredged it, but only at a cost of $1,500 a year.

The CHAIRMAN: And what did they undertake to lay out?

Mr. FLEMING: Well, they would not bind themselves to anything. They stated this: they said, "There is our reputation, there is what we have done in other places"; but what they did was this: they have gone to work and erected a building which will cost them perhaps $200 000.

The CHAIRMAN: So they have exemption from $140,000 for ten years?

Mr. FLEMING: No sir, only $60,000 was the amount of assessment, We have assessed them at $60,000

The CHAIRMAN: They paid $25,000?

Mr. FLEMING: Yes.

The CHAIRMAN: You assess them for $60,000?

Mr. FLEMING: Yes.

The CHAIRMAN: Take $60,000 from $200,000 and $140,00 they are free from taxation for ten years.

Mr. FLEMING: Yes.

The CHAIRMAN. As an inducement to come here?

Mr. FLEMING: Yes, well, of course—[laughter]—I do no not think the municipality gives them that, for the municipality had nothing, and it was simply a question between doing that—

The CHAIRMAN: They have exempted improvements that are now made to the amount of $140 000 for ten years?

Mr. FLEMING: Yes, and I may say this: at the time before that agreement was entered into they said that if they were going to be assessed for their buildings they would simply put up the buildings that they required now, but if the municipality did not assess them they would put buildings up they would not require for a great many years, so I do not think the municipality lost anything.

The CHAIRMAN: Other people would do the same for the same inducement.

Mr. KEMP: What about their personalty?

Mr. FLEMING: There was nothing in that about the personalty.

Mr. KEMP: They were exempted for ten years?

Mr. FLEMING: No, sir.

Mr. FULLERTON: There is nothing in the agreement about personalty.

Mr. KEMP: I think they are exempted for ten years from their personalty.

Mr. JUSTICE MACMAHON: Do they get free water?

Mr. FLEMING: No, sir, they pay the same water rate as any person else.

Mr. KEMP: Is the Toronto Glass Co. exempt from personalty?

Mr. FLEMING: I couldn't tell you that, it was before my time.

Mr. HUTTON (Hamilton): I can answer that, because we in Hamilton suffered. [Laughter.]

Mr FLEMING: In that case the City of Toronto lost nothing; it gained by whatever it did for the Glass Co The Glass Co come and bought a piece of property that was exempt, bought from the Ontario Government, and they came to the City of Toronto and agreed that they would pay local improvements rate on it, and pay upon their machinery and half a dozen other things if we would allow them to come in here and do business, so instead of losing on that transaction we gained

Mr. HUTTON: You took it away from Hamilton and Hamilton lost.

Mr. FLEMING. Well, I know the Glass Co. were very glad to get away. [Laughter.]

Mr. MACKELCAN: Why did you have to offer them those inducements? Why did you have to bribe them to come to Toronto? [Laughter.]

The CHAIRMAN: Unless there is some gentleman here who desires to address us and who would be unable to attend to morrow for that purpose, we will now adjourn.

Adjourned at 4.30 till 10.30 to-morrow.

4TH DAY, FRIDAY, NOVEMBER 16TH, 1900.

The Commission resumed at 10.30 a.m. All the Commissioners present but Mr. Butler.

The CHAIRMAN: We are now ready to proceed with the same subject we had yesterday—the most equitable mode of assessing the stock in trade and other property of mercantile firms and mercantile corporations.

Mr. H. H. FUDGER, Toronto: Mr. Chairman and Gentlemen of the Commission: I am here representing the firm of The Robert Simpson Co. The statements made by the representatives of the Board of Trade expressed the views of the company I am connected with on this matter of assessment, and we believe that the Board of Trade is the competent and proper exponent of those views on behalf of the merchants. The report, however, of the proceedings yesterday has brought up some points in regard to departmental stores that we did not think it was fair to leave unanswered, and although there has, of course, been time to prepare no extensive reply or put in more then a crude and imperfect statement of the relation of departmental stores to this matter of assessment, I have jotted down the points here, and with your permission I will read them.

The CHAIRMAN: We shall be very glad to hear you very fully. It was stated yesterday that departmental stores stood in a very special relation to this subject of assessment, and, therefore, we shall be glad to hear your views upon the subject very fully.

Mr. FUDGER: This is the statement of the relation of large retail stores to the question of the most equitable method of assessing the stock in trade of merchants.

"Assessment on rental value as a substitute for assessment of personal property would, we believe, greatly simplify the levying of taxes, because the assessor need be an expert valuator only of houses and lands. At present he needs to be an expert valuator with an intimate knowledge of a great many classes of merchandise, and no one man can possibly acquire that knowledge in any reasonable time. The result is, people must either assess themselves or there is trouble, and the assessor puts down an indefinite amount. This property fluctuates less than any other in value and quantity, so that with a little readjustment from time to time an exhaustive valuation might be made practically once for all.

"If, however, the present law on the subject of personal property taxation can be improved so as to more equitably distribute the burden without resorting to inquisitorial methods we have no special interest in the agitation for a change. We are not careful to choose between these two systems. We are ready and willing as any of our fellow citizens to pay our full share of taxation to the municipality on the basis of service rendered which we believe to be the fair basis of municipal taxation.

"We submit, however, that there is nothing in the volume of our business or in the nature or conduct of it that should subject it to any additional or special taxation whatsoever.

"We do not believe our Legislature, which represents the public, will consider any measure discriminating against large business enterprises supported by the public while the public have in their own hands the choice of encouraging or discouraging such enterprises. Where special paternal legislation has been attempted or enacted the avowed purpose has been not an equitable method of assessment for revenue but a curtailment of the scope of the business so taxed. This violation of principle of just taxation would never be tolerated on this continent.

"The contention advanced in support of such legislation, that large retailers seize some particular line or lines of goods as the profitable nucleus of their business and make several other lines handled without profit or at a loss subservient to the first mentioned is

Mr. KERR: What advantages would there be?

Mr. FUDGER: I have not had very large experience in jobbing dry goods, but in the jobbing business that I am most familiar with the speedy reception of goods ordered, the very close touch in which the customer is with the merchant, I have found to be largely in our favour in Toronto. I speak now particularly of wholesale jewelry and fancy goods, in which I am directly interested. No person would order from Montreal when they can get their order filled very much more speedily here by the carrying of the stock nearer home.

Mr. WILKIE: Are the stocks kept in Montreal by the wholesale merchant larger than in Toronto?

Mr. FUDGER: Not in the lines with which I am familiar.

Mr. WILKIE: Is the stock larger and the assortment greater in Montreal than Toronto?

Mr. FUDGER: I have no knowledge of that in Montreal.

Mr. JUSTICE MACMAHON: Mr. Brock says the difference between taxation of his establishment here and in Montreal was about three thousand dollars. He paid taxes here of three thousand seven hundred dollars, and that was about six and one-half times more than in Montreal, where he paid five hundred and eighty dollars, or seven and one-half per cent. on the rental value of the ground and building.

Mr. W. R. CAVELL: Mr. Chairman and Gentlemen:—Yesterday you said we could produce anything further we had on behalf of the Retail Merchants' Association to show that the departmental stores should have a tax different from that of other retail merchants. Could we mention that now?

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Mr. CAVELL: They have asked me to state the headings, giving some reasons why such should be the case. The departmental stores are enabled by the large amount of capital invested to escape taxation of a large amount of their merchandise under the present law, owing to having a large indebtedness always existing. Because of the methods of conducting such business by such stores, existing business and resident property become vacant and depreciate in value, making the assessable property less valuable, and the burdens of government heavier on the many for the benefit of those stores, or the few.

Mr. JUSTICE MACMAHON: I do not think that that first reason is correct.

Mr. CAVELL: It came out in a recent investigation when we had occasion to appear in the Court of Revision. A large amount of capital is invested in land—that is, in one departmental store; the same principle applies to all—they own an amount of land, I think it sums up to close on a million dollars, which is all free of incumbrance. By reason of that it gives them a large financial standing in the mercantile world, and by that they are enabled to get credit that they would not otherwise get—that is, that their capital is invested in land where it is taxable, if mortgaged or not, and that enables them to escape taxation on their goods.

Mr. JUSTICE MACMAHON: What I understand to be what the departmental stores gave us was that they bought from the manufacturer and bought for cash, and, therefore, were able to sell at a lower rate than those who bought the goods on credit.

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The CHAIRMAN: In that respect they are not different from a firm.

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Mr. CROCKER: I think the assessment should be reduced. Take, for instance, a side street where the assessment is say $40 or $50 a foot, and a house would be rented on that street at $30 or $35 a month. Then, we come into the sections here where it is assessed at $120 a foot, and that store only rents for $25 a month. What we want to get at is the earning power of it.

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Mr. CAVELL: Mr. Pears wishes to speak on the question as to how it effects real estate.

Mr. GEORGE PEARS: In regard to the departmental store business I believe that they are not constituted on any good business principles.

The CHAIRMAN: We cannot consider that question.

Mr. PEARS: Well, but you want to know what I say about that.

The CHAIRMAN: Yes; but it is so far as it affects the question of taxation.

Mr. PEARS: I want to tell how it affects me and how I believe it affects business. I believe that their power is in deceiving the people.

The CHAIRMAN: We cannot hear statements of that kind.

Mr. PEARS: What do you wish?

The CHAIRMAN: It does not affect the question before us, which is whether the present law should be changed, whether these departmental stores ought to be assessed in any different way from the rest of the public.

Mr. PEARS: Well, I think they ought to be assessed, I think they have inflicted a great injury on business men by attacking them in various businesses. I think if they do any more than one line of business they ought to be assessed for every line of business they do, I think the way they have injured the commercial public is in going into so many different lines of business; and then as regards the way they have injured the city of Toronto property they have certainly routed out half the men that were established in business and that built up Toronto and were doing business on good business principles, and they destroyed their property. Well, I think it was a great injustice to the city for the way they are organized and destroying other good commercial men's property.

The CHAIRMAN: You say they ought to be assessed a special tax for each line of business they carry on?

Mr. PEARS: Yes; then in regard to the country, they are destroying the country merchants by doing retail business with the country merchants and paying no taxes to the country towns.

The CHAIRMAN: You think they ought to be assessed in the country towns too?

Mr. PEARS: They are destroying the business of all the Province.

The CHAIRMAN: The same reason would apply there the same as here.

Mr. PEARS: Yes; we are trying to promote a good healthy commercial business in the whole Province. I think they are injuring the good commercial men by doing the retail business in those towns and paying no taxes in those towns.

The CHAIRMAN: They are liable to taxation like everybody else even under the present law. The question is whether that ought to be changed.

Mr. PEARS: You cannot get at them now, it ought to be changed.

Mr. JUSTICE MACMAHON: I suppose what Mr. Pears means is that each of these departmental stores do a very large business through the surrounding country towns by the written order system they have?

Mr. PEARS: Yes.

Mr. JUSTICE MACMAHON: And they do all that through the country towns without paying any taxes?

Mr. PEARS: Yes; and they destroy the merchants in those towns. I have lost more than one hundred and fifty thousand dollars on account of Eaton's springing up at a time after I had built in accordance with the present system of doing business. One building I built for a furniture business and it was valued at one hundred thousand dollars. The way it was rented it was paying interest on one hundred and fifty thousand dollars. Well, in three years after it got started Eaton began pretending to sell furniture at a lower price than this company could. Well, I had to reduce his rent one half. Then they commenced going into one man's business and then another, and making the people believe that they gave them bargains. Well, they only have a very few bargains of old stuff they want to get rid of, and the power they have to advertise is so great because they have such a big establishment and don't pay the same taxes as another business man would, and if it was not for them, business men would be doing a good healthy business and be able to supply the public a great deal better than they do, and they

had to bear that difference in taxation, a difference which was caused in my opinion entirely by departmental stores. I think there is no question whatever that that shrinkage was caused by the effect which these stores have had on business. Now, it has been said to-day that the departmental stores deal directly with the manufacturer, and therefore are able to sell to the consumer at a lower price than those who buy through the wholesale houses. I admit there is something in that, but when I come down to the furniture business they are entirely astray, at least the same thing does not apply because every furniture dealer in the city of Toronto buys directly from the manufacturer, and there is no intermediary between him and the manufacturer, and we can buy just as cheaply as departmental stores can from the manufacturers. Those who pay for their goods promptly buy on just as good terms as any departmental store, so that the results in the furniture business cannot be attributed to having to pay higher for their goods or profits being charged to the consumer, and it is only the methods of the departmental stores which can account for the difference which exists in the furniture business to-day from what it was in 1885. Now, we ask the commission to recommend to the government an optional law. We are not here simply as retailers of the city of Toronto: we are here representing the retail merchants of the province of Ontario; our association is a provincial association, and with branches all through the province. We are here asking for an optional law in order to protect outside communities as well as our own. If we get that law, and the citizens of Toronto think that it is not in their interest to put it into force, well and good, but we ask that permission be given for such legislation, because the interests of the community throughout the province will be affected thereby.

The CHAIRMAN: What do you mean by an optional law—what option?

Mr. ROGERS: The law which I referred to yesterday, passed by the Prussian Diet, by which it makes it more difficult for those men to engage in those various lines of trade.

Mr. MACPHERSON: That is, you are discriminating against the departmental stores?

Mr. ROGERS: Yes.

The CHAIRMAN: Is this German law applicable to the whole empire, or only to Prussia?

Mr. ROGERS: That German law is applicable only to Prussia. That allows the case that Mr. Fudger referred to whereby a dealer who carries various other lines of goods, it does not prohibit him from doing that, but a merchant can carry a number of lines of goods, but the various lines of retail trade are grouped into four classes, and a merchant can engage in any one of these classes without coming under this law, but it is only when he branches out and takes in more, two or more classes, that the law applies to him.

Mr. CAVELL: Mr. Impey is a merchant who has suffered injury by the departmental stores, and would like to state his reasons for it.

Mr. IMPEY (Toronto): Gentlemen, I have been asked to give a few words of evidence for your Court to consider with regard to the effect of the system of departmental store methods of doing business outside of Toronto as well as inside. I have travelled very largely over the Province. I have lived in Toronto for over thirty years, but I have been travelling on the road over twenty years. My line of goods has been wall paper and window shades. The results of the methods adopted by this new development of business, or departmental stores, has been that the trade has been very largely wiped out not only in Toronto but in other towns in the Province by retail dealers who had been in the habit from year to year of handling large quantities of these goods, now having to give up entirely, cease from buying the quantities they had been in the habit of buying for years past in consequence of the competition led into and carried on by the departmental store system. They claim—and I think they do so with truth—that they can hold their own against any fair competition in any line of goods they have been handling, but when we consider that the departmental store system has introduced a very much cheaper made article, you might almost term it a shoddy article, both in window shades and wall paper, in order to advertise the low prices in that particular line, by which means they will attract the people generally to come into the store, believing they are getting the goods which have been advertised, getting them there and selling very much higher than the same class of goods, the dealers in the country have lost a large portion of their trade while they are dealing in honest goods and honest prices. Not very

specialty of it; to day there is only one firm in existence, and the present firm has suffered largely and I believe others have been extinguished by the departmental stores. That has been my own experience.

Mr. CAVELL: Mr. Pears wishes to speak on the question as to how it effects real estate.

Mr. GEORGE PEARS: In regard to the departmental store business I believe that they are not constituted on any good business principles.

The CHAIRMAN: We cannot consider that question.

Mr. PEARS: Well, but you want to know what I say about that.

The CHAIRMAN: Yes; but it is so far as it affects the question of taxation.

Mr. PEARS: I want to tell how it affects me and how I believe it affects business. I believe that their power is in deceiving the people.

The CHAIRMAN: We cannot hear statements of that kind.

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many years ago it was the usual habit of the trade to which I have been directing attention to take very large orders, in the neighborhood of four, five or six hundred dollars from small dealers. That has been entirely wiped out by this unfair competition of the departmental stores. I need only say that the methods more than the actual facts of price are the elements that have tended very largely to interfere with legitimate trade. The methods, sir, have always been to advertise something very low in price and lower than the ordinary dealer could supply the same goods at and make a margin of profit for himself. They have adopted that scale simply by clearing up the remnants of certain goods, assuming that they are good, honest values. In many other cases, as you are all no doubt aware, they have actually misrepresented the value and description of their goods.

The CHAIRMAN: I am afraid we cannot hear any statement of that kind.

Mr. IMPEY: I am only explaining, if you will kindly bear with me, the method adopted by which the trade has been gathered into those establishments to the injury of outside dealers. Those are some of the methods The facts, of course, are very apparent to all. During the last thirty years in this city I have devoted my time to that line of business, wall-paper and window shades. In consequence of this wiping out of the demand for goods I have now for the last eight or ten years been without a position in that business. It has been by these methods which are anything but methods which would be adopted by honest merchants. The result of that has been very largely to create a large number of vacant stores, and if not vacant certainly it very largely reduced rentals. The city and the citizens generally have to make up the loss by taxation that that result has forced upon the conditions. Now, as it affects taxes it is simply here—

The CHAIRMAN: That view has been fully presented to us.

Mr. IMPEY: Then all the Association is asking for is a legitimate and equitable assessment of those stores.

The CHAIRMAN: That is what we want.

Mr. IMPEY: It has been contended that those stores should be made a special target for special taxation. I think the association with which we are connected have no such desire. All that they believe is that they should be taxed as ordinary individuals and other merchants are taxed in proportion to the trade they do or stock they carry. You are aware that the recent developments have shown that they are not assessed to above one tenth or one-twentieth of the value of the stock they carry. What the association is endeavouring to get by some equitable method is that they should be asked to pay their fair share as any other ordinary merchant would have to pay on their stocks if you continue this personalty tax. Well, now, the facts developed very recently have shown you that is not the case to-day.

The CHAIRMAN: What change would you suggest, then?

Mr. IMPEY: The change that I have found through the country has been largely in demand until something better offers is this turnover business tax, a tax on the business that is done rather than the personalty or stock that the merchant carries. That has been asked for by country merchants very largely on this ground, that a merchant doing a million dollars worth of trade to the injury of his competitor outside, by fair or unfair means, should certainly be looked upon to make up the loss that his means and methods of doing business has produced to the municipality. That is the view they took of this turnover tax. They are certainly largely in favour of that tax as a business tax, and my impression has been gathered from some years now travelling through the Province and consulting with retail merchants in all lines.

Mr. WILKIE: There is a distinction between business tax and a tax on the turnover?

Mr. IMPEY. The turnover tax I refer to, that is the tax I found receiving much more favour than any other suggestion. I have been talking to the merchants in the towns and cities on this matter during the last three or four years, and that is their view.

Mr. CAVELL: Without detaining you I may say there are some merchants outside of Toronto who would like to have been here but we had not an opportunity of telling them yesterday. They are here to-day.

The CHAIRMAN: I think your report has been very fully presented indeed.

Mr. CAVELL: Mr. Proctor is one of the Court of Revision, and Mr. Bryce, if you would like to hear him.

The CHAIRMAN: We have heard Mr. Proctor unless he has something further to say.

Mr. PAUL CAMPBELL: (Halton Co): Can an outsider address you?

The CHAIRMAN: Yes; you were connected with John MacDonald & Co., wholesale dry goods merchants, Toronto?

Mr CAMPBELL: I was a member of the firm of John MacDonald & Co. I have retired from business and am now what you may call an agriculturist. I have always taken an interest in this question of assessment and would like to make a few remarks

The CHAIRMAN: We would be very glad to hear you after your very long experience in business.

Mr. CAMPBELL: It is some time since I took some interest in this question. When I was a member of a firm paying a large amount of personalty tax it became my duty and privilege as the chairman of a committee at that time to investigate the matter. I was accused at the time of looking at it from a selfish view. I retired from business three or four years ago and I find my mind has not changed; therefore it was not from a selfish point of view that I looked at it. Now, I would like to know if the Commission is empowered to suggest to the Government or Legislature the mode of assessment which in their minds ought to be enacted through the Legislature?

The CHAIRMAN: Yes, that is one of the objects of this Commission.

Mr. CAMPBELL: Therefore what you want is as much information as possible on the question. Now, what I am very sorry to see is this fact, frequently a community is divided into two classes, one desiring to impose taxes on the other. I think they ought to have been here as a unit, and for this purpose, to do away entirely with personalty taxation in business In no other country in the world except in some parts of the United States is there such a thing as personalty tax in business. Why should there be any personalty tax in business? The preamble of the Assessment Act says this, that all wealth, that all property, whether personal or real, shall be assessed equally; but immediately afterwards they commence in regard to the personalty to make exemptions. It was necessary, because personalty cannot be taxed in the same proportion as realty, and it never has been, it is impracticable; it may be righteous enough to do it, but it is impracticable to do so; therefore there were exemptions. What was the result of these exemptions? That there were only two classes of capital left to be taxed on its face value, that is capital in business and the deposits in banks. Now, as a matter of fact you will all know that they do not tax deposits in banks because they say they only allow 3%, and the rate in the city of Toronto being 2%, 60% of the interest would be taxed for taxation. It is so incongruous and absurd that it could not be carried out. It is on the statute book and should be carried out just as much as the tax on personalty, for this simple reason, that the majority of people who invest their money in commerce lose it entirely, and why should they be singled out for a tax on the face value of their money, and those people of wealth who have their money on deposit in the bank and get 3%, go free? There is no reason why it should be. Now, these gentlemen here to-day ought to be a unit for the purpose of abolishing the personalty tax entirely. A gentleman over here laid stress on the fact that the people owning personalty or property were taxed for services or protection. Now, as a matter of fact, that is not the case, it is not carried out. For illustration I will state this; a very wealthy citizen of Toronto exhibited at the exhibition a few years ago, two pictures, very fine pictures; one was marked underneath, "Cost $10,000"; the other was marked "$8,000." Now, the only presumption is that as that citizen had an art gallery attached to the house that he had $100,000 or $200,000 of money in his pictures. His furniture and carriages would be in harmony with the picture gallery. Right opposite that house—because I know what I am speaking about, it is an actual fact that occurred—there is a small merchant doing business. He was taxed on the full amount of his capital doing business. And did he get any more protection or services for the protection of his personalty in his store than the rich citizen owning hundreds of thousands of property? He would not get as much protection, because the rich citizen would go to the seaside and notice would be sent to the police to look after his house, and it would be done. The small merchant would not be treated in the same way. I will give you another illustration of the unfairness. There was a firm in Hamilton, one of the largest firms there, consisting of two members. They dissolved

on this principle, one went out with $150,000 and the other remained in with $150,000. What was the effect of that? The municipal authorities afterwards went and said, "Here you have $150,000 in your business, we will assess you for that $150,000, you cannot deny it," and they were assessed on this $150,000. The gentleman that retired safely and invested his money carefully in bank stocks, I presume, Dominion, Imperial, and others, was only assessed at $10,000 Is not that a gross injustice, that the man who is employing labour like the man that remained in business, creating population—and you know population gives value to land, there can be no value to land without population—and creating that value, that he should be taxed fifteen times as much as the retired man. Now, these illustrations show you the hardships of personal taxation by real cases. I see by the papers that Mr. Brock referred to the effect of personal taxation in Toronto as a hardship to Toronto because in Quebec they have the business tax in lieu of it. In Britain, of course there is no tax on capital in any kind of business or manufacture, and the same in almost every civilized country except the States and here. We copied our form of municipal taxation from the United States, and it was a very bad form. I have thought it well to make a suggestion as a basis of taxation, these three principles. Of course we know taxation is divided into realty and personalty. There is not much trouble about realty, except in regard to those rich corporations, and what I would suggest as to the rich corporations and franchises and rails is that the mode of assessment ought to be a little freer, the assessor ought to be allowed to tax the market value or earning power of those corporations, street railways and electric light companies.

The CHAIRMAN: We are not on that to-day.

Mr. CAMPBELL: I only made that remark. The principles of taxation are: First, municipal taxation should be based solely or entirely on wealth or the ability to pay; if you deviate from that rule you make taxation complex and it becomes at once unfair; and secondly, it should be uniform and equal on all property of the same kind, which it is not in regard to personalty, and I think that should be the scope of the Commission, to suggest that all taxation on personalty should be uniform and equal, based upon wealth. And on this point I should make a suggestion, that it should be all on profit or income; that is, a man in business should be assessed on his profit or income derived from his business, a man on salary should be assessed on his profit or income derived from salary, and a professional man's profit or income derived from his profession, of course allowing them so much, seven or eight hundred dollars, of the income so as to allow the poorer classes to be exempt up to seven or eight hundred dollars.

Mr. WILKIE: That is not personal property; you cannot call income personal property.

Mr. CAMPBELL: Yes, that is under the head of personal property.

Mr. WILKIE: That is a new system. You would call it income?

Mr. CAMPBELL: It is under that head. The two divisions are realty and personalty, and that is one of the features of personalty.

Mr. WILKIE: It may be a mistake, but really you say here, "uniform as regards taxation of personal property." Personal property includes a great deal more than income.

Mr. CAMPBELL: I include the whole three views of capital—manufacturing and business, and income derived from profession.

Mr. WILKIE: You suggest a tax on all?

Mr. CAMPBELL: On all equally, and all should be based on income or profit derived, and then it would comply with this rule that I have laid down here, and there could be no question. Of course it is easy to be got at after it has been in operation for two or three years; a cycle of time or a series of years should be taken as a man's income or profit or salary, and if you got down to that you would have a uniform tax, and you would not deviate from the rule. Then the third principle is that taxation should be based, as far as possible, on what is tangible and seen. You know what people complain greatly of is the inequality of taxation; and I hold that the taxation of income or profit on the three divisions of personalty would be more tangible and easy by taking them on what they derived. Now, if we tax these large stores—because I do not think you can ever get the Legislature to legislate specially against one class of the community; it is impossible to do so—but if they did this, if they united on one thing and went to the Legislature saying, "We want every man to be taxed equally; if they make two or

three thousand dollars a year we want them to be taxed on that, or if they make three hundred thousand dollars a year we want them to be taxed on that, and the little merchant makes one thousand dollars a year, he gets exemption of $700 a year and only pays taxes on $300," that would be sensible to go to the Legislature.

Mr. WILKIE: You suggest primarily that the tax on personalty be abolished?

Mr. CAMPBELL: Certainly, by all means. It is a most iniquitous, unequal and unjust law; but tax them on their income and you can get at the income much easier than you can at the wealth of the man, because if a man is in business and he is in a hard position and misfortune, he is not going to reduce his assessment. Case after case came to my knowledge in Toronto where a man didn't pay 10 cents on the dollar and yet was assessed for twenty and thirty and forty thousand dollars. What I want to call attention to is that if you assess all classes of persons on income you can arrive at it more readily, because we all know that the majority of people in a new country like this always live up to their income as a rule. You can get at it. The rich gentlemen here must spend so much. The assessor says, "You are living up to $10,000 a year; you cannot return me $2,000 of income, you must return me something in harmony with your mode of living," so that is the easiest way. There is another thing. We all know that in Dominion taxation the incidence of taxation comes on the poorer classes; it has come on the poorer classes, and there ought to be then an equity and fairness as far as local taxation is concerned.

Mr. WILKIE: I do not quite understand your principle, principle No. 2. You say "uniform as regards taxation on personal property and income."

Mr. CAMPBELL: I divide it into two classes, realty and personalty. It is called by the Assessment Act "personalty," whether it is their income or profit.

Mr. WILKIE: I understand you are opposed to any taxation on personalty.

Mr. CAMPBELL: Except income.

Mr. WILKIE: Why do you say in No. 2 "personal property and income?"

Mr. CAMPBELL: I mean taxation should be on income or profit.

Mr. WILKIE: And not on personal property?

Mr. CAMPBELL: And not on personal property. There are three sources. Personal property should be abolished. The man that is in business has an income or profit from his business and a professional man has an income or profit from his profession and a man on salary has an income or profit, and I want it to be uniform on all classes, so that the man that is making a large income would be taxed equitably.

Mr. MACKELCAN: Then should real estate according to your view be taxed only on the rental?

Mr. CAMPBELL: No, I have a certain sympathy with the Henry George theory and I am living in the country now. The Henry George theory is carried out in the country entirely. I bought a large farm about 400 acres, near here, and the buildings on it cost $15,000 and I am not assessed one dollar on them. Neither in the rural parts of the country are you assessed on buildings, so it is really carried out, but that principle could not be applied to cities.

Mr. MACKELCAN: They do not assess you on your income either? (Laughter.)

Mr. FULLERTON: Where is that?

Mr. CAMPBELL: In the township of Trafalgar.

Mr. FULLERTON: The assessor makes a practical application of the Single Tax.

Mr. CAMPBELL: Yes, it is really carried out virtually. The reason of my suggestion as to franchises is that a street railway costs say $1,000,000 and it pays over five per cent.; they ought to be assessed on the million dollars.

Mr. MACKELCAN: In the township where you live do they tax you on the income on investments?

Mr. CAMPBELL: No, I do not pay any personal income now. I have got out of that.

Mr. ALAN C. THOMPSON: I represent a manufacturing concern, we are a young concern just commencing business. We had hardly had our name on the door when the assessor came around and wanted to know how much we were worth, then proposed to fine us at the rate of two per cent. on our capital.

Mr. JUSTICE MACMAHON: He wanted to start right.

Mr. THOMPSON: I think that is starting very wrong. In starting a business we believe that we are not only doing a good act for ourselves, but we are benefiting the whole

community, and I just want to mention this fact, that the matter was talked over by our Board of Directors and they said, "Here, it is just a question whether Montreal or Toronto is the best place to locate," and this I won't say decided them because they have come to no decision as yet, but they say that if they are going to tax us at the rate of two per cent., or pretty nearly that as the rate was last year and it is presumed it is the same this year, on our capital, then we are going to Montreal. I want to call attention to that fact to show what the effect of taxing an industry is.

Mr. FLEMING: We won't do it.

Mr. WILKIE: Another exemption. (Laughter.)

Mr. THOMPSON: The solicitor from Hamilton (Mr. MacKelcan) made a statement yesterday which I am heartily in accord with, it is one of the few statements that he made that I am in accord with, and that is that the property which is benefited by public taxation and improvements should pay it. Now I submit that he nor any gentleman here present cannot prove that any dollar of public expenditure ever added one cent to the value of any goods in trade. If you want proof of that all you have to do is to think a little. Suppose we go to a frontier town where the transportion is bad, where the risk of doing business is great, as it is on the other side in the mining towns where life and property are not very safe; what percentage does a man want for carrying on a business of that kind where he has to take as it were, his life in his hands? He wants two or three hundred per cent. Why? Because there is no protection to life and property; there is no fire and police protection: his goods may be all burned if there is a spree on, as frequently happens so we are told, in that unhappy Republic; the people are on the "shoot" and he has a good chance of being killed. But mark the change. Just as soon as law and order is established and good facilities for doing business, the price begins to go down and down until the ordinary profits in business as represented by ordinary commercial risk as well as the risk of fire and police and damage from improper protection of that kind begins to go down, and we find that instead of requiring two or three hundred per cent. profit he is content with fifteen or twenty, or as these departmental stores make out thirty three and a third per cent.

Mr. WILKIE: What is your business?

Mr. THOMPSON: The business we are starting is the Canada Radiator Co. Now, there is another point in connection with tax on personal property which I think has been uniformly overlooked, showing the impossibility, for I think that the deputation from the Board of Trade yesterday proved that an equitable personal tax was an impossibility. Assuming that it can be collected it then becomes one expense of doing business. It is just as much a cost of doing business as the book keepers, &c., and it becomes added to the price of the goods and taken out of the consumer. The tax payer then is only advancing the tax; he is not the tax payer exactly. Unfortunately under our present system it is not a tax of that nature; some pay it and some don't; the result is it is a tax on honesty, and a tax on honesty unfortunately cannot be shifted. It then comes out of the pockets of those who are honest enough to pay it. The result is that we have unfair competition. If you are to have a personal tax it would be much better, as was suggested yesterday, to take a tax on business premises. But I think that is simply reducing the evil. The thing ought to be abolished entirely, because when we want to get rid of objectionable things—for instance in a township where they want to save sheep they put a heavy tax on dogs. If you want to get rid of things, tax them out of existence. There has been some talk here to-day about a number of vacant premises in the city. The way to get your premises full is to encourage people coming here and doing business, and not to put obstructions in the way of doing business. Now I want to have a few words to say upon departmental stores. There has been a great deal said about unfair methods and about the number of storekeepers that have been driven out of business. Now, I am not prepared to say that there is not some ground for the complaint, but I think the evil is laid at the wrong doors. Combination of capital to day is one of the evils of the times. It is not only true there are less stores in Toronto to-day, both retail and wholesale, but there are fewer manufacturing concerns in given lines. Fifteen or twenty years ago, when there were no departmental stores, there was an agricultural implement manufactory in nearly every town of importance; now two or three control the trade of the country. And so it goes, and we must recognize that fact; but there are certain conditions in connection

with departmental stores, not because they are departmental stores, but because of the character of the business. Taking the figures from the assessors' returns this year as to the Simpson store, the frontage is 117 feet on Yonge St. which is assessed for $205,000 in round numbers. The building on that is $150,000. Now, if you will take the line of retail stores over the Don from the Don bridge on Queen St., both sides, to the railway track, you will find that the figures are something like this :—The value of the land is $180,000 in round numbers, that is about $55,000 less than the corner of Simpson, a little over 100 feet, but the buildings erected on that nearly a mile of stores is $176,000 ; in other words, it is assessed for $26,000 more than the building on that 100 feet, although Simpson's building is a magnificent structure some six stories high, and up to date store lighted by electricity and heated by steam, whereas over the Don we have little ramshackles, two stories and three stories, brick front and all kinds, as well as vacant lots ; yet on that mile of stores over the Don there is $25,000 more assessment on buildings than there is on a larger value of land on the corner of Queen and Yonge. Now then the most equitable way for the assessment of both classes would be to exempt personal property entirely. That would involve a larger real estate investment, and if you exempt the improvements too you would then find that Simpson would have to pay a larger rate on a larger land value, whereas the small storekeepers near the Don would pay a larger rate on a much smaller land value.

Mr. E. M. Trowern : I just wish to speak especially on this departmental store question, which was allowed to be opened up again this morning, while representatives from the different concerns are here one speaker stated that a large departmental store is like a general store. Now I wish to say that the old general store that we had in the country, in the different towns and cities of the Province, while they are similiar in carrying various classes of goods, we do not object to them ; it is the method in which business is done we object to We have no fight with the general stores of the country ; they are useful and convenient places in the country, but the way in which they do their business is entirely different from the modern departmental store. One of these large warehouses is assessed at $100,000 on personal property and they are paying $1700 now, while the seven and a half per cent business tax would produce only $206 63. That difference would be placed over the homes of the city or placed on the retail merchants. Another one assessed for $30,000 personalty is paying $510 now and under the new plan of seven and a half per cent on the rental would pay $202.23. Then we get down to some of the retail houses and we find their rates would be increased from what they are assessed at now if the business tax were introduced ; and unless we get this special tax on the departmental stores—and we are asking for it because of the way in which they conduct their business—unless we get that additional turn-over tax applied on the different groups of business, this business tax would really be detrimental and we would be worse off than under the present system. I impressed that before the Board of Trade two years ago, and we were handicapped then by not having the effects of the departmental stores generally understood. We know the newspapers take their advertisements largely. If you open a newspaper you will see the back and the inside pages occupied by their advertisements. This is a revenue producing power, and we cannot blame the newspapers, they are looking for all the revenue they can get. I have been in the jewellery business for twenty-nine years. I left it as there was absolutely nothing in it. If I had the necessary capital to invest in it, it is the poorest investment a man can go into. Why ? I buy a case of clocks costing me 50 cents each, and place them in the window ; but the departmental store has those clocks marked down 49 cents, regular price 75 cents—and they pay the same price as I pay. Take a store like Dineen's. There is no use in any departmental store telling me me that they can carry a better stock of fur and hats than Dineen carries ; he is one of our members, one of our best business men ; the same with Mr. Rogers, and all the the large houses on Yonge St. and Queen St. are members of our Association. Now if you wish to buy a hat you can have a better stock there than you can in the departmental store, consequently they cannot serve the public any better. For furniture you go to a furniture store, for pictures you go to a picture store, because those people are devoting their whole time to that particular line of trade. We could have a rental tax now if we applied for it because it is on the statute books, but if we had that it would be inflicting a punishment on retail stores unless you give them the trade that properly belongs to them by placing a tax on those other places. If you want the dry-

goods business take the dry-goods and build your shop just as you like but do not take my business of solid silver spoons. Mr. Fudger here this morning says this system of business is a more economical way of doing business. Well, silverspoons, even taking them at 80 cents an ounce—I can produce advertisements that they are selling them at 80 cents an ounce—a jeweller like Ryrie, Ellis, Kent, others that have invested a large amount of money have to carry these goods, but I ask any of you gentlemen if you will pay 80 cents an ounce for silver spoons, at any of these large retail shops, how are they going to get square with the banks? They employ expensive clerks. The Simpson Co. would not surely tell you that anyone could go and select a good diamond ring, a good watch, a good chain, at one of these departmental stores; we know they could not do it. Why do they keep what they have there? Simply to pull the heart out of business that the little jeweller used to keep You can hardly buy a wooden clock on Yonge Street to-day. I saw in a shop window of Eaton & Co. last night an oak clock marked 65 cents. Who is going to carry wooden clocks? They take those clocks, uncase them, ship them to the public and guarantee them for probably ten years, I don't know how long. The jeweller has those clocks, pays help, takes the pendulums off, oils them, puts his name on the back of the case, and his reputation is at stake. The departmental stores advertise, "your money back if you don't want it;" that is nothing new, but our merchants say "We don't expect you will want your money back, because we have been in business;" Take Morphy's, they have been in business fifty years; they must have been straight in business or they would have been out of business long ago unless they had plenty of capital, and they had. It is a complex question. These gentlemen are members of the Board of Trade. You could not expect the Board of Trade to get up here and help us— and I am saying this because I feel a little sympathy with them If I was to canvass ninety per cent of the Board of Trade, the wholesale merchants and the others, as they would be in this room, they would be on our side and against the departmental store system of doing business, but a number of them sell to these stores so they have to simply keep their head covered. They sell to the retailer and they sell to the departmental store and they say "We don't want to be seen in this thing; we don't want to interfere; go on and fight your own battles;" and consequently the fight has to be done with the retail men, and these men are asking you to give us a special means of holding our own business; the businesses we have learned—dry-goods business, jewellery business, furniture business, all these various business that we have learned; we want to try to develop our minds, develop our capital, and build them as big as ever you like, but we don't want them to be destroyed by taking our goods and using them for bait in some other line. Now, if you put five or six or seven per cent on the rental value of the Eaton Co. or the rental value of the Simpson Co., you would be producing less revenue to the city than you are even getting out of them now, though one of them claims that he has a stock of $685,000, and he should only be assessed at $85,000—owes all the rest to the banks; and while they will come out and tell you that it has a good moral effect on the country to be able to say, "We buy for cash; it is for our magnificent amount of capital that we have that we do all this business;" but yet when you bring them before the Court of Revision they say "We owe for everything, we are absolutely in this position that we have only $80,000 out of $680,000, in business." This is of course an evidence of falsehood on the face of it, just the same as those other little things, advertisements we find from day to day, silver spoons and jewellery and clocks and a good many different things. The Eaton Co. were taken up here some time ago for absolutely advertising a quadruple silver-plated set that had eight ounces of silver on it that no respectable jeweller would have in his place, and they sell it for a quadruple plate. Now, while they were found guilty of fraud in the Court of General Sessions, and in the High Court of Justice, only the other day I found they discontinued their appeal before the Supreme Court, acknowledging they would have lost their case there, which was simply a case of fraud. If it was simply a little retail merchant. or it was a poor woman with a basket of butter standing on the market place, and the butter happened to be a little bit short in weight she would have the butter confiscated and lose the whole of it; or if a man advertised a watch—a case which has happened recently where a man said this watch was a solid gold case and it happened to be gold on the outside and filled in the centre he was fined in the Police Court for fraud. What we want is a system that will be able let to every man know when he learns his business that he has the protection of that business, that he can put his boys in that

business; as an old Scotchman said not long ago when he wrote in the back of his ledger, "Lord, help me and this book to be honest." That cannot be written on the pages of books where you say "Regular price 50, to-day selling at 25;" and there was never any regular price to it because they do not consider themselves regular dealers. I do not know where they get their regular prices from, but it is not from the manufacturer We must protect our furniture manufactures and jewellers and every other man that has devoted years of his time in learning his business. All we ask is to give the towns and villages and cities power to apply that special tax.

Mr. WILKIE: Will you repeat that proposition? Is it a turn-over tax in addition to a rental value tax?

Mr. TROWERN: That is it, on all stores that carry more than certain groups, and we will give you those groups and specify the different articles in the groups.

Mr. MACMAHON: That is not a turn over tax; that is a prohibition tax against the carrying on of certain business unless they pay a certain license.

Mr. TROWERN: You can call it a license if you wish, but the Prussian Diet Bill allows a man to do business in one group and taxes him nothing but when he gets out into the other group then he is taxed according to the amount of business he does in those groups. If a man went into a little business and took on one branch of the other group he would not pay so much. They would tax him as it went up

Mr. FULLERTON: Doesn't it amount to this, that for carrying on a certain business you charge a business tax, if you carry on another business you increase the business tax?

Mr. TROWERN: Yes, you can call it that way. We give the man more latitude. Mr. Fudger said every store was a departmental store. It is not so. There are certain lines peculiar to each. A man who is carrying a jewellery stock is not going to take in a lot of crockery ware or some other line foreign to his place, because he knows he would have to carry this stock and it would be a loss. That has been tried over and ever again and the merchants don't do that. It is to prevent the drygoods trade, which is being absorbed now by the stores in Toronto, and making them pay as advertisements. These stores have absorbed the franchises out of the city. The street railway pay a certain revenue to the city for the franchise of carrying all people up and down. If you give me an exclusive right on the dry goods trade I will pay you an immense revenue because it is a very profitable institution; but when they go and take it by a concentration of capital they have done precisely the same thing as the handing over of the railway by the corporation without charging them anything. They have taken it by an immense amount of capital, and the other people have paid for it.

Mr. JUSTICE MACMAHON: But the streets are vested in the corporation, and the business is not vested in the corporation.

Mr. TROWERN: I was speaking about the earning power.

The CHAIRMAN: The difficulty is that, you see, anyone else could do the same as they do at Simpson's.

Mr. TROWERN: We don't want to do it.

The CHAIRMAN: Yes, but you could if you liked; it would be lawful and no law could prevent you.

Mr. TROWERN: Then if you do not think a change should be necessary, why is it necessary to say to a man who goes out with a basket, "You must pay a tax of a dollar, but if you increase your basket to a push cart you have to pay $10?"

The CHAIRMAN: What I mean is this: you are abusing the system of departmental stores; you say it is unjust and unfair and unreasonable and all that, while it is a thing that the law permits to be done, that is the difficulty.

Mr. TROWERN: Well, I say it should not.

The CHAIRMAN: We have no power to alter that law nor to make any suggestion in respect of it. The only thing we can do is to see if it would be just to make a change in the assessment law with reference to such establishments.

Mr. TROWERN: Of course that is what we wish you to do.

The CHAIRMAN: It does not help us to show that this mode of doing business is a little unfair, that they use means which perhaps everybody would not condescend to to attract trade and custom and all the rest of it; that does not help us.

Mr. TROWERN: It is leading up to the reason why a change should be made.

The CHAIRMAN: If you can suggest some mode by which it would be just to tax them by reason of their having attracted to themselves such a very large proportion of those different kinds of business, that is what we want.

Mr. JUSTICE MACMAHON: Mr. Trowern points to the Prussian Diet Bill and says, "If that becomes law it will effect some remedy for the men in the individual trades."

Mr. TROWERN: That is it, and it is our privilege to lay before you the various bills that have been brought in in other places. Nearly every large city is struggling with this question at present. A bill passed in Missouri. They passed in Chicago twice, it missed simply by one vote, and the other States are taking it up, so that it is not new.

The CHAIRMAN: Legislation to what effect—in respect to taxation.

Mr. TROWERN: Taxation. I purpose laying before you the various bills that have been brought in on the subject and then mapping out the plan we shall offer for the taxation of departmental stores. It is on unfortunate subject to have to talk about, but the facts are there and we will present them. (*a*)

The CHAIRMAN: If a man is carrying on a lawful business then there is no power to impose upon him an unjust tax simply because he has been successful.

Mr. TROWERN: Suppose we change it to a license, that would have the same effect but it might not sound quite as bad.

The CHAIRMAN: The question is what proportion of the expenses of the city ought these establishments to contribute by reason of their great success and by reason of the great extent of their business?

Mr. TROWERN: That is it, and that is why we have laid before you the evidence, to have that pointed out.

Mr. STEPHEN GRANT, (London), Gentlemen: You might say that after all the raising of taxes resolves itself into a sort of family affair. There is a certain amount to raise to carry on the business of the city and it should be raised equally on everybody. It is a very convenient thing for a man who is intending to build a house to go to a bank or loan company and borrow what he wants there. Well then, if a man's taxes are too high, and put altogether on real estate, and a man with capital does not help to pay taxes, he is to a certain extent spoiling his own security a little. Well then, if this man is cramped between the loan company and the payment of city taxes, it is not a time he will go to the merchant to buy his wife a silk dress, and I am sure he would not have gold watches or buy diamond rings at all. It is sufficient for an assessor to have a system. He has no personal interest, but when he goes into a store he has a scientific system to go into that store and be able to inform a merchant that he is treating all business men alike in the assessment of personal property. I should think that in one sense assessors have too much privilege as well as too much difficulty; for they go into a man's store for a mere whim of their own; if they feel good perhaps they will raise it $5000; then he thinks you have a spite on him and that you raised him intentionally. Then another day you may have a little gloomy feeling, everything goes wrong, and you would lower him a little. We should not have such powers as that. We should have a business principle for assessing these people so that we would be entirely free from suspicion and we would not be subject to any complaints.

Mr. W. A. DOUGLASS, B.A. (Toronto): I would like to call your attention to some facts with regard to the growth of departmental stores, and I must admire the persistency with which retail merchants have called attention to the growth of these huge, gigantic concerns, which seem to absorb all the smaller business; but while I sympathize with them there are some facts I would like to point out. In the first place they seem to me to take a very narrow view of the situation. At the same time that departmental stores appeared in this city, there also appeared the trolley system which destroyed the cab business. The carrying of this city has been put into the hands of one corporation, and now we find half a dozen cabs in the city, where a few years ago we could find some hundreds. At the same time the linotype came; it turned a large number of printers out of employment. And we can go back into history, and find, again and again, where a change of that kind has taken place, where in the case of a railroad the stage coaches were driven from business, were closed up; in the case of the steam power loom thousands of men were thrown out of employment; and then we saw the growth of those huge

(*a*) See No. 6 in Appendix A.

gigantic factories. What the peasants formerly made in Switzerland we find to-day being made by hundreds of people in one institution. A short time ago there was a mill in every village. We find now a few mills on this continent doing all the business. So the departmental store is only one of the phases of a tremendous movement that is taking place in society. I sympathize very much with my friends of the retail stores, but there are some things that they seem entirely to overlook. A few years ago business in this city was exceedingly active, every retail store seemed to be fairly well employed. Then in the course of two or three years, or perhaps only two or three months, there came a collapse. Hundreds of builders, shall I say, perhaps that would be too large a number, but at that time I was intimately connected with the building trade and had to keep track of a large number of builders, and out of those builders with whom we did business there was only one or two that I can remember that survived that calamity which paralyzed that trade in this city. Now where, some months before workmen every week were buying in those small stores at the end of the week, instead of that one half of the workmen in this city were tramping the streets in idleness. There came great depression. A large number of storekeepers were driven to bankruptcy; men who supplied the trade were also driven to bankruptcy; and then came the cry against departmental stores. Now, the proposal made by these parties for the purpose of curing the evil appears to me to be exceedingly unscientific. They do not ask, "Where does it begin? How is it that business has been driven into the hands of a few? How is that the transportation of this country is in the hands of a few companies? How is it that our great cities are growing larger and larger, and our smaller towns are either stationary or going down; how is it that city populations are growing larger and the rural populations growing less?" These are all phases of one trouble, but they do not deal with that. They do not ask for the source of that trouble; and if they were to take another look they would see that the fortunes of this continent are concentrated in the pockets of a few people, and that we are having a large mass of people—farmers and mechanics and other parties—who are living on a small margin of a mere narrow living. So that here we are dealing with a mighty difficulty. Now I sympathize wholly with the efforts of the retailers, only I think they commence entirely at the wrong end; they go at results; they say, "Tax results." They do not look to see why it is that that man can do business there and concentrate that business there, and then find out in what particular he has the advantage over another man, and whether that advantage is an unjust one which we can fairly deal with in assessment. Now suppose we ask, "What would a departmental store do up near the asylum?" It would simply go to bankruptcy. The departmental store has the advantage of location; it must always seek the centre. Now, the retail system for our cities has made it possible for the farmers to come in here and do the marketing in a day: they come ten or sixteen miles to the centre; they can walk into one store, transact all the business in a few minutes, and get on a car and go home. That builds up the centre of the city, it concentrates the business there. Now we can see right where the departmental store is, there is an enormous value of land, and where you come to the smaller store the tax of personalty is very much larger than it is in proportion to what it is at the departmental store. If we are to abolish taxation on personalty altogether and on industry altogether and concentrate the taxes where this business comes, we would stop this evil. These parties have never asked the question, "Why was it that for a few years and even to-day there are a large number of people searching the papers to find where the bargains are to be found?" A few years ago there was a fire in one of the large stores in this city. It happened to be right opposite my office and I could see it. I saw it filled every day because people thought they could go there and get bargains. Why did they go to get the bargains? They were not the people who occupy houses on Jarvis street and St. George street; they were the people of small pay; and I speak with sympathy because I have been in this situation, where every copper has to be watched, and if they are given a chance on bargains they are going there.

Why do they buy the smallest possible quantity and for the smallest possible price and give the retailer no chances for a living? Because they cannot afford it. And if these parties will look at the reason why it is they have such poor customers to deal with they will find it originates in the fact that if we will follow the industrial man where he goes to day, every woman that puts a stitch in his shirt increases his taxes, every man that clears an acre increases his tax; and instead of taxing monopolistic profits and concen-

trating the tax on the land where we could get at the evil, we try to catch it by following the man and putting a tax on him. Let me tell the people that they are pursuing a course that has been tried through all the ages and that it has always failed.

Mr. R. J. FLEMING (Toronto): Would you allow me to put in a statement as to what the effect of the change of taxes would be if the Montreal system of taxes were adopted? As we see it it would simply shift the burden from those who are able to pay and who are paying it onto those who are burdened at the present time. (*a*)

The CHAIRMAN: Such a statement would be useful, I think.

Mr. FLEMING: While on my feet I desire to dissent from the statements that have been made this morning to the effect that the great, almost the whole depression on store property has taken place because of departmental stores. There is no question that the departmental stores have had an effect to what extent no man living can tell, but the store property has decreased from natural causes, because of one fact, that store property in Toronto was very much sought after ten or fifteen years ago, it was run up in price, and there were three stores erected for every two that were required; and when the depression came these stores commenced to compete with each other, and the result was that rents went down and store property went down. After all I do not know that store property has decreased a very great deal more than private house property has in a great many parts of the city.

Mr. STEPHEN GRANT (London): One word. I trust that in considering the equalization of the taxes of the city that it would be considered a provincial one, and that city, Toronto or no other city, will be able to work one against the other.

Mr. JUSTICE MACMAHON: It would be a general law.

Mr. PAUL CAMPBELL: In speaking of personalty it should be a tax uniformly and equally laid on profits. There is no reason why the rate should be the same on personalty as on realty as it is now; it may be increased.

Mr. A. E. KEMP, M.P.: There are two observations, one made by Mr. Fleming and one by Mr. Grant which I would like to refer to. I think Mr. Grant is quite right in saying that he has too great a responsibility imposed upon him in going from store to store and from business place to business place, that he may raise a man $5,000 or he may not as the case may happen. That should not be in the power of any assessment commissioner; I mean to say such privileges as exist under the present Assessment Act. We should not expect our officers to have, or to assume, such responsibilities. Mr. Fleming estimates that the statement that he will put in will show that the burden of taxation will be shifted from one class of the community who are able to bear it and put on the shoulders of another class who are not so well able to bear it. That may be only his opinion. I do not think that any statement he will produce will work out in any such way as that. What we want to do is to put ourselves so that we can compete favourably with places like Montreal and Winnipeg. The wholesale merchant distributes his goods from the Atlantic to the Pacific, and the wholesale merchant in Toronto who has to pay seven times as much taxes as he would have to pay in Montreal cannot distribute his goods as well in the eastern townships; therefore we want to have a law that will attract wholesale stores and industries to Toronto, and the Board of Trade are very anxious to have a law that will be uniform throughout the Province in every place so that there will be no more competing and no more exemptions and concessions and dickering. I think it is conceded by everyone that the whole system is an iniquitous one, and that some remedy should be provided, and that if we are going to tax personalty the most equitable kind is the tax of seven and a half per cent. on the rental value that was proposed yesterday; and I think we have another example this morning of a gentleman who says "If you impose the law on me I am going to Montreal." There are many cases like that.

Mr. FLEMING: Can you quote a case of a person who has gone to Montreal because of the taxes?

Mr, KEMP: There are a lot of houses in Montreal that used to be here that only now have agents here.

The CHAIRMAN: Mr. Brock is one.

Mr. KEMP: H. A. Nelson is another one. I did not come here with a list and did not attempt to prepare it, but we know whereof we speak, and when I am talking I am

(*a*) See No. 7 in Appendix A.

talking with the approval of men and merchants in this city who know what we are talking about If it is necessary to place before the Commission the evidence of the fact we shall be glad to do it; but to think that every man who is considering where he should locate, whether in Toronto or Montreal, is going to the assessment commissioner of Toronto is absurd. He simply knows the law exists, and capital is very timid and very sensitive.

Mr FLEMING: I do not think Mr. Brock will say that he started his business in Montreal because of taxes he had to pay in Toronto. The point I wish to make in the statement I will put in is this, that the store-keepers, the wholesale houses of Toronto, would be relieved by this business tax which would be placed over upon the householders of Toronto and placed over on the vacant land of Toronto, and placed over on small store keepers of Toronto who are paying nothing at all at the present time It may be in the interests of the city to do that—I am not questioning that at the present time—but I simply point out to the commission that that is going to be the effect of it. And there is this further fact to be remembered. You have had all the gentlemen here who wish to be relieved of the burden they are paying and put it over on some other person. You have not had a representative of the real estate owners of this city. They say "We are practically satisfied with the burden we have at the present time"; they do not suppose that a burden is going to be placed on them

Mr. KEMP: I wish to deny on the part of the gentlemen of the Board of Trade that they come here wishing to be relieved of any burdens by this Commission. Such a question was never considered in respect of their taxation. They did not expect to be relieved; it is simply the view that they take of the question, having given it much consideration, and in the interests of the city solely.

Mr. FULLERTON: What would the result be of what Mr. Fleming contends?

Mr. FLEMING: It is not a question of what their intention is; the fact is if what they are asking is carried out it means relieving them of great burdens. Let me refer to one or two instances. Now we will take some of the larger houses shown in this statement. This was gotten up in the early part of 1897 when this question was before the council.

The CHAIRMAN: That is the statement you were proposing to put in?

Mr. FLEMING: Yes, a part of it.

Mr. JUSTICE MACMAHON: You are going to put in a fuller statement of that showing how the burden is being removed?

Mr. FLEMING: Yes; I will show you it meant here simply one paying one-sixth of what they are paying at the present time.

Mr. KEMP: Other wholesale people will pay more owing to the way that their capital is shown on the books.

Mr. JUSTICE MACMAHON: That is, the man who has a liability against his stock cannot escape under the new system, but he can escape under the present?

Mr. FLEMING: That will be mighty small compared with the other escapes; that is our view of it.

Mr. FRANK HUTTON (Hamilton): As far as Hamilton is concerned we take the same view and will be pleased to put in a statement showing the assessment of each and every property in the city, and how it will work out. I think we can back up what Mr. Fleming says in that respect, that it will be simply a means of shifting the burden where it cannot be as easily borne as it is at present; I do not think there is any doubt of that.(a)

Mr. FLEMING: I am not expressing an opinion as to whether the change would be a good thing for the city or not; I am just stating what the effect would be on other property owners.

Mr. WILKIE: And the proportion of the personal tax to the whole is how much?

Mr. FLEMING: Twelve or thirteen per cent possibly.

Mr. WILKIE: So that the whole bearing would be to the shifting of ten or twelve per cent. of the whole revenue from taxation?

Mr. FLEMING: Perhaps not so much as that, because a good deal of that is income. I presume the income would not be touched in any way.

The CHAIRMAN: The statement you showed me yesterday was that the proportion of personal tax to the realty tax was eight per cent.

(a) See No. 8 in Appendix A.

Mr. Fleming : Possibly.

Mr. Wilkie : So that the shifting would only be a shifting of a portion of eight per cent., which would not be a very serious matter.

Mr. Fleming : It might be a pretty serious matter on some property owners to-day who are receiving no benefit from the police protection of the city. Practically the police protection is centred down town among the wholesale houses.

Mr. Wilkie : But the man who has a stock of half a million dollars and who owes half a million dollars on that, pays nothing towards fire and police protection, so that as he stands now the system is imperfect.

Mr. Fleming : As a matter of fact I think there is only one in town.

Mr. Wilkie : But the ownership of goods is not in proportion to the quantity of goods on hand ?

Mr. Fleming : No.

Mr. Wilkie : He pays in proportion to the amount of goods on hand subject to what he owes on them, so that the statement as to the proportion he pays for fire and police protection is not borne out, because the amount of liability is to be deducted, so that the proportion has to be shifted.

Mr. Fleming : That would be very good if the other person stood in the position of the person you referred to ; but I am going to take scores of persons in this city, what they are paying now, and showing what they would have to pay if the change takes place, and there are very few men you will select to-day who are doing any business of any extent who would pay any more than they are paying now. I have a man in my mind who is paying on half a million dollars and is owing nearly as much. Although he says, "There is half a million dollars against my stock," he is paying as much with that exemption as he would be paying if we were to adopt a business tax.

The Chairman : It is quite plain that if the tax is lowered on one class it must be raised upon another.

Mr. Fleming : No question about that.

The Chairman : It is only a question of whether it is just to do it.

Mr. Paul Campbell : The Assessment Commissioner and Mr. Wilkie stated that a merchant having a large stock would not pay his share of taxes. They seem to overlook the fact that a merchant on King St. and the centre of the city pays the largest tax on realty, and it would naturally equalize the taxation. Then there is a large amount of personalty in the houses of the wealthy which are entirely exempt.

Mr. Wilkie : It was argued before you were here that the only way to pay for police and fire protection was by taxing personal property.

Mr. Paul Campbell : I want to call your attention to the fact that business carried on in very expensive premises pays more than its equal share of taxes on the realty. The application of capital and business ability to real estate gives it its value, therefore he is paying it in that way. I am a real estate owner in Toronto and I take a different view from Mr. Fleming. I hold this, that if we can bring capital to this city by saying to the whole community and the whole world, "Come here and we won't tax you on capital in business or manufacture, you are increasing the population, and your property will increase in Toronto."

Mr. Justice MacMahon : What is the total amount of taxes collected in the city ?

Mr. Fleming : About three millions, that is local improvement and everything.

Mr. Justice MacMahon : How much is it less local improvement ?

Mr. Fleming : It would be about two and a half millions.

Mr. Justice MacMahon : You are getting two and three quarter millions out of taxes, and the personalty tax only brings about $150,000.

Mr. Fleming : Perhaps a little more than that, that is, say, $200,000.

Mr. Wilkie : That is including income ?

Mr. Fleming : No.

Mr. Justice MacMahon : So that the part that would have to be made up by a change would not be very great ?

Mr. Fleming : No, but it is after all the shifting of it. I am not dissenting from what Mr. Campbell says, I think he has offered a number of sensible remarks, but I think it is my duty to point out to you that it is going to burden other people, and that point about the property down town paying their taxes, they do pay their taxes, but the police

force is kept up for them, the fire brigade is kept up for them, and the water service is far more expensive because of those people.

Mr. DOUGLAS: There is one phase of the question that has not been spoken of. What is the effect of taking the taxes off goods? Isn't it to make them cheaper, so that while we are removing the tax off the goods, while we may apparently put the taxes on other parties, we may be removing them by making them cheaper?

Mr. HUTTON: The whole number of persons in Hamilton paying personalty tax is 950, of which only 30 pay on amounts greater than $5000. Now, the tax on those thirty would be removed by the rental tax and it would be increased on the other 920. Of course it would be only a small amount. The total amount of taxes raised in Hamilton from the assessment roll is $540,000, and the amount raised from personal property is $60,000.

The CHAIRMAN: You mean merchants' stocks?

Mr. HUTTON: Yes.

The CHAIRMAN: Is there any considerable amount of taxation on personal property besides merchants' stocks?

Mr. HUTTON: There is none that I know of—there is no cash in hand or bank. Oh yes, I see what you mean; there are some—insignificant; they would probably be under $150,000.

Mr. Stephen GRANT: I might state that in London the proportion of the income tax and personalty combined bears to the total assessment as one-third. The personalty and income would include the dividends of loan companies, insurance companies and other companies

Mr. FULLERTON: I would like to call the attention of the Commission to this one fact: (Reads clause 2 Assessment Act). The discussion has got very much afield of the subject under discussion today, and probably the proposition proposed might include breweries, distilleries, manufacturing establishments and other features.

The CHAIRMAN: No.

Mr. FULLERTON: I just wanted to point that out so that we would know you are confining the subject to merchants.

The CHAIRMAN: It is the assessment of the stocks in trade of merchants.

Mr. FULLERTON: The by-law in Montreal goes much wider, and the discussion has gone much wider.

Mr. MACKELCAN: Before the discussion of this subject is closed I would like to say something further.

Mr. Justice MACMAHON: Dr. MacLaren is here representing one of the departmental stores and will likely occupy some time. Perhaps it would be better that you should follow him if he is the only one to address the Commission regarding the departmental stores, and possibly we might get through to morrow about this time.

(Adjourned at 1.45 till to-morrow at 10.30 a.m.)

FIFTH DAY—SATURDAY, NOVEMBER 17TH, 1900.

Commission resumed at 10.30 a. m. Commissioners all present except Mr. Butler.

The CHAIRMAN: I see Mr. Hugh Blain present. I dare say he can give us some light on the subject that is now under discussion, and we shall be glad to hear from him.

Mr. HUGH BLAIN, Wholesale Grocer, Toronto: Your Honour and Gentlemen: I received a telephone message from the president of the Board of Trade last night urging me to come down and say something in reference to this matter. I, however, must say that I think the matter has been dealt with pretty thoroughly by the members of the Board of Trade. However, there was some difference of opinion, and I suppose you want to hear it all.

The CHAIRMAN: We want to hear every view that can be presented fairly.

Mr. BLAIN: I may say that for the last twenty-five years I have been regularly urging upon the Ontario Government to change this what we consider an unfair system of taxation on personalty, and I have always looked upon it not as a municipal question but rather as a provincial question. Speaking for the wholesale trade in this city, as it is a distributing centre, we are in competition with cities outside the Province, and therefore,

we are affected as largely by assessment outside the Province as we are by the assessment of our smaller cities within the Province itself. The people of Toronto, as you are aware, have had a good deal of enterprise, as I think most people will admit, and have succeeded in making this city of ours by far the greatest distributing point in Canada. I think statistics will show that we distribute more over our railway systems to the outside places of Ontario and take back produce in return in a day than they do in the city of Montreal in a week. Now, while that has been achieved, it has been achieved by very hard work on the part of the merchants of this city, and the record will show that of the men who have spent their efforts in building up the city of Toronto and making it a distributing centre such as I have mentioned, very few of them have retired from business with a competency sufficient to enable them to live on afterwards. They either go to some foreign or other place, try to make a living on new lines, or they drop into the insurance business, which is considered to be always open to those who are well known in the city, and who have spent their lives here and who probably can get a preference in the matter of insurance from their old friends in business. I do not think we need to laugh about having to go into the insurance business. I consider it is an honourable business; but the man who has failed in other lines is able to get a living in it when the conditions that he had been accustomed to have made it such that he cannot continue. Now if that be the case—and I think Mr. Wilkie will know whether that is pretty largely correct or not—of all the men who have been building up the trade and commerce of the city of Toronto, I think there are very few exceptions where it can be shown that out of their commercial business they have retired with sufficient to keep them for the rest of their lives, and these few I fancy will be just the few that are necessary for the exception to prove the rule. Now, the present system of taxation is such that if it had been enforced, if the law had been carried out as it stands on the statute book, I venture to say here that there would not be one of all the merchants have contributed towards the building up of the city of Toronto who could have survived the enforcement of the law strictly. It is because it has not been enforced that they have been able to do so. It is of such a character that we cannot in business take exception to it. I am speaking of course for the wholesale trade. If I have a small capital in my business and I object to the assessment, go to the proper authorities and show that I am not worth it, my credit is ruined; I cannot continue on in my business. If I have a large capital in my business and I am assessed for it I must submit; but the profits of business under the keen competition of the present day will not give me a return for that capital, and I cannot afford to pay what the law requires. I know myself of cases in the city of Toronto where men have paid on large sums of money —I mean $20,000 or $30,000 in one year—actually insolvent. I know of other cases where men who were wealthy, who had a large amount of capital, lent their money in other directions and borrowed for their business, and by that means they escaped taxation, Now surely a system that allows that, and yet to be strictly within the letter of the law. is unfair. I think it is fair, too, to present another aspect of the case, and that is that our property has already paid the national expenditure. Where goods come into this country the tariff and also the excise revenue contribute very largely, nearly altogether, towards the national expenditure; and I think it would only be fair that some system that would be just to all parties should be devised that would relieve property itself from the taxation of providing for the local burdens. If the class of property when it comes into the country or is produced, such as some of our excise goods are, pays the whole or nearly all of the national expenditure, surely they might be relieved of the local expenditure. Of course I am aware of the fact that a great many goods are manufactured on which there is no duty, either custom or excise, but these are a very large class of goods that all people have been endeavouring to exempt from taxation, and where it is the belief of everybody that they should be encouraged, and our municipal authorities have relieved the manufacturing classes from this special tax. I do not know that I can enlighten the commission at all on the matter, because they have been giving this special study and I have not been looking at it for the last three or four years very much; but it strikes me —and I offer the suggestion with a great deal of hesitation because of the difficulties that surround it, because I know that it is a very complex question and one that is very hard to deal with—that a combination of rental and income would be in my opinion the fairest way to tax our commercial people and especially our wholesale people. Take an institution like my own; I think the rental is quite easily obtained. You can readily ascertain

what my rental ought to be, and the percentage on that would be an easy matter to determine. I am free to admit that there are others where the rental does not enter very largely into the results of their business, and I think in that case you could ascertain from the income, and probable what would be still more perfect, instead of adopting either the one or the other of these systems would be the adoption of both.

The CHAIRMAN: By income you mean income from the business?

Mr. BLAIN: Yes sir.

The CHAIRMAN: Disregarding other kinds of income?

Mr. BLAIN: Entirely disregarding other kinds of income. A man is assessed on his other kinds of income at any rate in other ways.

Mr. WILKIE: You mean by income, net profit?

Mr. BLAIN: Net profit.

Mr. JUSTICE MACMAHON: That would be the income of a partner as distinguished from the individual living, who might be assessed separately.

Mr. BLAIN: Yes.

Mr. MACPHERSON: The partner who had many investments in outside things might pay his separately altogether?

Mr. BLAIN: He does now.

The CHAIRMAN: So the man who is trading by himself and not a firm, his business would be regarded?

Mr. MACPHERSON: Yes, what he made out of that business in fact would be the amount on which he would be assessed.

Mr. JUSTICE MACMAHON: That would be one source of income?

Mr. BLAIN: I am aware that the present system that we are working under just now has not been so burdensome as it might have been, and I will say with regard to the present Commissioner, that the way in which he manages our taxes, that I have no serious apprehension, because I think he is inclined to do fairly by the traders and merchants of this city, I think he is anxious to see the city prosper and he treats us as fairly as it is possible to be treated under the law; but if a Commissioner came in and took the position that he might take technically and insisted upon enforcing the Act, it would simply drive the wholesale trade from the city of Toronto altogether to the city of Montreal. Mr. Brock, I believe, gave you a very good example of that the other day, and there is no doubt at all when you come to look at the past history of our city that if the terms of this law as it now exists, should be enforced, Toronto would disappear as a great distributing centre. Our manufactures might go on and our retail business might go on, but the city as a distributing centre of commerce could not have the position it has to-day. We have to compete with Montreal, Winnipeg, and in competing with those places we have to consider the facilities they have there, and they have at present better facilities at those places than we do here, therefore the natural course is for us to leave Toronto and go to those places that give us better advantages. As a matter of fact that has been the case in both Winnipeg and Montreal; our drygoods trade has gone largely to Montreal recently for some reason or another; we have only got some five or six wholesale houses in Toronto; we have less wholesale grocery houses to-day than we had twenty years ago. We are doing a business on a very small margin. If you want to keep us here and ask us to contribute towards the taxes of this city you must give us conditions under which we can live. We to-day pay a large share of the realty tax, we are taxed upon the most expensive buildings in the city where all the great wealth, so far as realty is concerned, is centred, right in the business part where we pay it; and in addition to that the law wants to impose upon us conditions that it is utterly impossible for us to discharge. That is plain speaking but it is exactly what we feel. There is no man in business making a great deal of money to-day. I have been at it actively for a third of a century myself, and I am speaking from experience. I do not see that I can say anything more; I would be very glad to answer any questions that may be offered.

The CHAIRMAN: You have been considering this matter from the Toronto point of view; now, I would ask you to look at it from the Provincial point of view and see how it would strike you with regard to that, because the law must be as nearly as possible general, it must not be a law for Toronto, but it must be a law for Hamilton, London and other such places, in fact also for the smaller towns and villages. It would be pos-

sible perhaps to discriminate, in order to do absolute justice, between villages and towns and cities ; but have you considered it from that point of view ?

Mr. BLAIN : Well, as far as my surroundings have enabled me to consider it. You must always bear in mind, and I admit it freely, that I am affected more or less by my surroundings and by the conditions under which I am doing business, but I have tried to look at it impartially from all these points of view, and I think that the arguments I have used on behalf of Toronto will apply perhaps, not with equal force, but to other distributing points—Hamilton, London, Brantford, Kingston, Collingwood, Owen Sound, Toronto and all those points that are more or less distributing places.

The CHAIRMAN : What you have suggested you think would be best everywhere ?

Mr. BLAIN : I think so.

The CHAIRMAN : The retail men rather think that the change which you suggest would be injurious to them, would relieve the larger wholesale men from the burden, and would cast it upon them very heavily.

Mr. BLAIN : They may know more about this than I do, but I cannot see how that would be the case, for this reason, that the wholesale men are the men who are doing business in those large centres. I suppose this refers to departmental stores and wholesale houses like our own, and I am not here to advocate departmental stores or anything in their favour or otherwise, but warehouses or stores situated as we are would pay a larger rental in proportion to the space they occupy than these smaller retail stores on premises not so valuable away from the great centres. If that were so—you will be as good to judge as I am on that point—then the rental upon a large distributing store in the centre of the city would be greater in proportion to the facilities that they have than it would be in the outlying points. I do not know how that would be affected by the income, but I should think that it would be affected exactly in the same way that the income from a large establishment of that kind, if it were successful would be larger in proportion than the income of the small man, and if so the man owning the larger store would pay the greater tax.

The CHAIRMAN : No doubt that it would be so, but they argue that the result would be that they would have to pay more than they are having to pay at present. The very extent to which the wholesale men would be relieved would have to be borne by them.

Mr. BLAIN : I don't see how that can be. If there is an argument in that they should give us the argument, because the bare assertion will not produce it.

Mr. FULLERTON : Allow me to make a suggestion. It was stated here yesterday that the retail store must have a good place for distribution in the city, whereas the wholesale store only needed a good place for distribution in the country and need not be on valuable land. I see Mr. Blain has stated the contrary, and probably did not know that that statement was made yesterday.

Mr. BLAIN : No, I did not know that that statement was made yesterday, but I am talking from the facts, I am not talking from what one person or another might state. The gentlemen around this Board know as a matter of fact——

Mr. WILKIE : That statement I think was only meant in regard to the departmental stores ; it was not made in regard to the ordinary retail stores.

Mr. FULLERTON : I understood it the other way.

Mr. MACPHERSON : It was made with regard to all stores. The argument was this, that it is necessary for the retail man doing business in the city of Toronto to rent a place in the very centre of the city where he would have to pay a very large rent, and if his taxes are worked out on the rent that he pays he would pay more than he ought to pay as compared with the wholesale man.

Mr. BLAIN : Well, it is a very easy matter to get the figures as to what rent we pay in these different places. I am not a real estate man and do not know the relative rents, but I venture to say that the rents that are paid in the great centres of business, such as an institution like our own, is at least four or five times greater in proportion to the frontage than it is on any part of Queen St.

The CHAIRMAN : Take, for example, Michie & Co., who are retail dealers ; the value of their premises, the rent as compared with yours.

Mr BLAIN : Well, Michie & Co. is an exceptional case in the retail business ; a few stores around there and also a good many offices and banks, have given a great value to the property along King St.

The CHAIRMAN: From Yonge to Bay for example?

Mr. BLAIN: Yes.

The CHAIRMAN: Perhaps from Church to Bay?

Mr. BLAIN: Yes, that is so. That is an exception.

The CHAIRMAN: Those are nearly all retailers?

Mr. BLAIN: Well, there are a great many of those that are turned into other institutions such as restaurants and banks, there is not a principal corner on that street that is devoted to business to-day. The Grand Trunk Railway office has one, the Canadian Pacific Railway another, the Dominion Bank another, and another Railway Company the other. Go west, and the Bank of Commerce has got a corner of Melinda St., and I believe there is a cigar store on the other corner, and you have a restaurant on the corner of Bay again, and those are all buildings otherwise than retail stores. However, I do not wish to lessen the force of an argument of that kind if it is in favor of the retail trade. I am not here antagonistic to the retail trade.

The CHAIRMAN: You are not antagonistic to anything.

Mr. BLAIN: No, sir.

The CHAIRMAN: You are endeavouring to give us the best light you can on this complicated subject?

Mr. BLAIN: Just so; it is a very complicated subject and you want to discover a basis of fairness, in order to do that we must take into account that if we go beyond a certain limit in trade with our distributing people, represented by the wholesale trade, we drive them out of our Province altogether; and the question arises whether you are going to give us the facilities here for doing the business, or lose us as tax payers altogether and drive us into another Province.

The CHAIRMAN: That is a very important view.

Mr. JUSTICE MACMAHON: The Assessment Commissioner said yesterday that the whole of the gross taxes collected in the city amounted to two and three quarter millions.

Mr. FLEMING: About three millions, local and general.

Mr. JUSTICE MACMAHON: Of that sum $150,000 only was collected as the property tax against the stock of merchants, so that there must be a very large percentage of the stocks carried here that do not pay a cent, and the only way to equalize would perhaps be to adopt your suggestion of taxing in addition to the land tax, the income and profits. The net profits would be the income of any establishment. Perhaps that would make up the deficiency, make up the $150,000 or more.

Mr. FULLERTON: May I remark there, there would be the land tax, the business tax and the income tax?

Mr. JUSTICE MACMAHON: The rental—the business based on rental.

Mr. MACPHERSON: It indicates that some people get off without paying personalty tax.

Mr. JUSTICE MACMAHON: They do not pay a cent of taxes if they buy on credit.

Mr. BLAIN: To show the inequality of it, take an institution with a warehouse that they own worth probably $30,000 or $40,000 or $50,000; that is part of a man's capital; if he occupies it himself he is relieved to that extent, because he pays on it already as realty. If he rents it he is not generally quite so able to pay, but he has to pay on the $50,000 on his business just the same.

Mr. JUSTICE MACMAHON: It goes either the one way or the other?

Mr. BLAIN: Yes. The present system is inquisitorial, it is unfair, there is no means of enforcing it, it cannot be enforced, it never has been enforced, it is calculated to make people dishonest, it is injurious in every way you look at it.

The CHAIRMAN: It seems capable of being evaded by a very simple process?

Mr. BLAIN: Yes, there is no doubt.

Mr. PRATT: How would you propose to get at the income?

Mr. BLAIN: Well, I think it would be a fair thing just to swear a man as to his income.

Mr. FLEMING: And profits?

Mr. BLAIN: And his profits. I don't think you would require to look through all his affairs, which would be detrimental to him as a business man, to get at what he had made during the year

Mr. Justice MacMahon : I notice in some of the States they penalize the maker of a false affidavit by adding about 100 per cent. to his taxation.

Mr. Blain : A man's surroundings and the way in which he manages his business is generally a fair index that he is making a reasonable return. That would be a guide to the Assessment Commissioner to some extent. I don't know; it would be for you gentlemen to work out a system that would enforce properly getting at what a man's income would be. It seems to me it could be done without the obnoxious features of the present law being enforced.

Mr. Justice MacMahon : I suppose in the case of a partnership or company their books must show what the net profits are for the year in making the distribution ?

Mr. Blain : Certainly.

Mr. MacPherson : Just as distinctly as a bank statement.

Mr. Justice MacMahon : Just so.

Mr. MacKelcan : The trouble is, the reason for the failure of many business men is that they never keep their books properly and do not know whether they are making loss or profits.

Mr. Blain : That is very true.

Mr. MacKelcan : So it would be a very difficult thing to arrive at.

Mr. Blain : I don't think that would apply to wholesale people.

Mr. MacKelcan : No, but we are speaking of a general system applying to wholesale and retail and to people having stocks of goods or people engaged in manufacture.

Mr. Blain : I would like to see the law require people to keep a proper record. That is one of the features, as Mr. Wilkie knows, that we want to introduce into our Insolvency law, to require that being done.

The Chairman : We are very much indebted to you for your interesting statement.

Mr. Blain . I don't know that I have looked into it very carefully from all sides, but I have been at it for a great many years and had a great deal of personal experience and have tried to give you the results of it as far as I can.

Mr. Stephen Grant : In arriving at that net profit would a man's household expenses be considered ? A man living at the rate of $10,000 a year and assessed at $2,000 ?

The Chairman : We are not speaking of that now ; it is merely the question of the assessment of a man's stock in-trade. I don't think his household expenses would be an element to be considered for that. It is pretty clear that Mr. Blain does not mean that his household expenses should be in any way considered in his business as ascertaining his income.

Mr. Grant : The only interest I have is in making it clear.

Mr. MacPherson : I take it that what Mr. Blain means is that if a business man makes $5,000 in his business he should be taxed on $5,000 even if he spends $10,000.

Mr. Blain : Yes.

Mr. J. W. Allan : In regard to income it would be interesting to know what hand the municipality had in making that income. It is in no sense a return for services rendered ; it is his own ability that has enabled him to make that income, and is outside altogether of the province of any municipality to tax, according to enlightened tax principles. As has already been stated, the only correct system of civic taxation is upon the basis of the services rendered ; and although I came in a little late to hear what Mr. Blain had been urging, it is forgotten apparently that there should be nothing antagonistic whatever between wholesale and retail. The wholesale manufacturing trade of a city is what creates the city. The wholesale manufacturing trade of a city has for its competitors the wide world, and the success with which it has secured markets for itself outside the city is the measure of success that the retail trade in that city will acquire, because of the possibility of the clientele of the retail stores to purchase goods from them. Therefore it seems to me that the argument regarding the price of the land occupied by wholesale or retail is something outside of any principles that should guide in making a fair principle of taxation. There has been apparently some objection raised to the possibility of raising a revenue under the new system. I was only last night looking up some matters in connection with New Zealand, and I find that they have there one section where this was first spoken about, where they had some fears, and within three years after the new system had been adopted—which is the system we are practically urging

here—those fears had vanished by the actual result proving far more equitable and returning quite as much as it had under the previous system. I take it that it is no business of the Assessment Department of any city to make itself an arbiter of what the people who are its virtual employers shall pay. It is the desire of all wholesale and retail merchants, if they be honest men, and I assume they are, not to object to any system of taxation that is equitable; and the stand we have taken here as representing the Board of Trade of this city in the previous session, and the stand I now take, is this: That we must arrive at something that is far more equitable than the present inquisitorial system, which does not in the first place live up to the terms of the law, and if it did, as evidence has already been shown you, you would drive the wholesale trade out of the city; but it also does not relieve the iniquity of the present system of taxation. I have a statement that I would place before your honourable body of a decision that I was reading last night—the decision of an English judge in the 12th Century on what is virtually this very question of personalty—and to me it is rather amazing that the gentlemen who are supposed to be the lights of the taxation problem in this country, that is, the municipal assessors, should be now occupying the position that was regarded as absurd six centuries ago by one of the learned justices of England. The particulars of that decision I cannot quote, and I do not desire to quote inaccurately, but I propose to place before your Commission the actual judgment given in that case. I can only say that it is no desire of the wholesale trade of this city to evade any portion of its true and just obligations. (Hear, hear.) It simply desires fair play; it simply desires to be realized that it is not an enemy of the progress of this city, as seems to be taken for granted by some of the arguments that have been advanced. If it be that any portion of the wholesale trade would be lightened by this taxation, then the measure of that lightening would merely show the injustice that the wholesale trade had been suffering in the past.

The CHAIRMAN: How did that change in the law of New Zealand operate—I mean what had happened so as to justify the change?

Mr. ALLAN: The exact particulars of that I will furnish you with the other statement that I have referred to, so that I may be perfectly accurate. (*a*)

The CHAIRMAN: You could not in a word or two indicate just how it was? Was it by the increase of the trade, increase of business?

Mr. ALLAN: It arose from the increase of business in the places particularly affected. They had been injuriously affected because this same principle had not been applied through the whole of New Zealand, and therefore competition had presumably driven business into other quarters. The position, as I take it, is very similar to the position now as between Montreal and Toronto in the matter of taxation of personalty.

The CHAIRMAN: And the change brought back the trade?

Mr ALLAN: The change brought back the trade, and the returns were more satisfactory than before.

Mr. WILKIE: I want to ask Mr. Fleming if the income tax against the wholesale merchant is ever exacted at present?

Mr. FLEMING: His personal income tax, certainly.

Mr. WILKIE: But supposing a man has an income of $100,000 a year from his business, he pays no tax on that at present?

Mr. FLEMING: Not at all, his business is taxed. There is not a double tax.

The CHAIRMAN: It is his goods?

Mr. FLEMING: Yes.

Mr. WILKIE: Not the net profits.

Mr. FLEMING: No.

Mr. FULLERTON cites sub-section 17 of section 7 of The Assessment Act.

Mr. ALLAN: I do not wish to be understood that in any remarks I made I was reflecting at all upon the assessors. As Mr. Grant, the Assessment Commissioner of London, very aptly puts it, while you are right in many respects, it is not the assessors that are to blame, it is the Assessment Act. That is what I am attacking, not the assessors.

The CHAIRMAN: I do not think it has been suggested by anybody that our assessment commissioners have been hard or unjust or unfair; they have endeavoured to do their duty, I am sure.

(*a*) See Appendix A No. 9.

Mr. MacKelcan: I would like to ask Mr. Proctor, Chairman of the Court of Revision here, his experience as to the clause exempting debts owing upon personal property.

Mr. Proctor: I find that in my experience it has been very difficult to work out that clause in the Act with any degree of efficiency or exactness. It opens the door in many cases to men making statements that are not absolutely correct, and that in the end they are enabled to evade a fair and just measure of taxation. I remember one occasion when a wholesale merchant of the City of Toronto was being assessed, and he said he had been assessed for more than he ought to be, and he thought that the assessment out to be lowered. Well, we endeavour to get at the amount of money that a man has in his business, we think that amount ought to be assessed, and the accounts and his debts deducted from that. This merchant thought he could very easily put himself in a position in which he would pay no taxes. He was a man of considerable means, and he said, "I will borrow from the bank in future, and I will pay it on my goods and I will make a statement to the assessor then that my indebtedness is so great." He could take the money actually out of his business, he suggested, and in that way have an indebtedness to the bank or to his creditors on account of his goods, and by that means was indebted for those goods. Now that is one of the ways in which no doubt the gentlemen who are endeavouring to evade a fair taxation take their money out of the business, put it into other undertakings, borrow on the credit of having that asset, and therefore are enabled to do business without paying a fair tax. In a stock of $200,000 a man might have $20,000 paid. He is perfectly solvent; he owes for $180,000, and comes to the assessor and says, "I have only got $20,000 in that business." A man alongside of him that is doing the same kind of business and doing it honestly and straightforwardly has all his means in the business and he is taxed on the whole $200,000. My experience is that that opens the way to very many very peculiar eccentricities, and men, in order to avoid taxation, will endeavour to say and so a great many things. They sometimes stretch their consciences a little—treat it something like the pious miser who shuts his eyes when the collection plate is passing by, but he sings very lustily that he is glad salvation is free.

The Chairman: The difficulty is that the Statute seems to allow of that very thing that you speak of.

Mr. Proctor: Yes, and of course in working it out the object of this Commission is to recommend some means that will minimize the difficulty.

Mr. Justice MacMahon: What would you suggest as a remedy for that?

Mr. Proctor: I do not know that I can suggest any remedy to meet a man who acts in that fraudulent way.

Mr. Justice MacMahon: That is, who withdraws money from his business and puts it in outside undertakings?

Mr. Proctor: Yes.

Mr. MacPherson: Or who invests it in a mortgage and goes to Mr. Wilkie——

Mr. Proctor: The only way would be to put a tax on the entire goods in his store. You have heard something about the wholesale trade being driven from the City of Toronto. Now, if the gentlemen will look back to the past they will see some reason for that. In 1878 there was a change of tariff. The majority of the wholesalers at that time knew they were going to encourage manufacturing at home, and that the importing business would largely fall off. The wholesale trader knew that the importing business was what kept up the wholesale trade to a large extent, and after the adoption of that tariff the retailers in Toronto went directly to the manufacturers in the country and could buy direct from them, and there was no intermediary men. That was the argument at that time, and that proved to be effectual. Then another thing to-day is the growth of departmental stores, doing a business of six or seven million dollars. That business used to filter to the retail stores through the wholesale stores. If you had four or five wholesale stores doing a million dollars a year in business and selling to twenty or thirty or forty or fifty retailers in the different parts of the city and throughout the country, you would find you would have business in the wholesale trade and there would be business for the retailer; but the departmental store goes direct to the manufacturer in England and imports direct, consequently there is no necessity for the wholesale house. That is one of the conditions that is driving the wholesale trade away from here, and I

have no doubt whatever that if a change was made and that all the personal property—not only the personal property that is in the business but the personal property in money, all wealth—if that were taxed, the taxes would be so low that it would lower it on the real estate and the wholesale houses and the other people who are now paying high rates, that the wholesale property would be lowered and the general taxes would be distributed more widely over the whole people, and in the end they would not pay more. The man who has money practically pays on the income on it; he does not pay out of the capital. The man who is in the business is supposed to pay on the capital. The other man, who has the funds invested, pays on three or four or five per cent., whatever the income is. That, I say, is an inequitable way to assess property. The general law is that all property shall be assessed, and then there is a lot of exceptions. If all property, real and personal, is to be assessed alike, then it should not be a question of income; but if it should be on income in one case, the rental value, then it should not be in the other case on the funds invested. Both should stand on the same basis; but if you attempt to tax one on his house and property and the other on his stocks and bonds, you are assessing one man for $500 and assessing another man for perhaps $10,000. It is all wealth. And there is where the great difficulty in dealing with personal property is. You ought either to adopt the system of assessing on the rental value of the whole and the income from the whole, or assess it on the face value of the whole and let every man pay equally.

Mr. FLEMING: Which do you recommend?

Mr. PROCTOR: That is a question I am not prepared to say at present, but my own opinion is that wealth, wherever you find it, should be put on the same basis as real estate wherever you find it, and have it assessed in the same way.

Mr. WILKIE: I would like to ask if the wholesale trade of Montreal has been affected in the same way that you say the wholesale trade of Toronto has been affected by the wholesale dealings between the retailer and manufacturer.

Mr. PROCTOR: What I was drawing your attention to was the fact that the retailer—in Montreal I understand they have no successful departmental stores as they have here.

Mr. WILKIE: Oh, yes; but I did not refer to the departmental stores. You say that the higher tariff in this country has had the effect of drawing the manufacturer and the retailer closer together.

Mr. PROCTOR: Yes.

Mr. WILKIE: I ask has that been the effect in Montreal, or has it only been the case in Toronto?

Mr. PROCTOR: I can't tell you as to that, but I believe that has been the effect here, and I have no doubt at all that it must to some extent affect it in Montreal if the manufacturers are there.

Mr. JUSTICE MACMAHON: I thought that the manufacturers never dealt with the retailer, that the manufacturer had his agents and sold only to the wholesale trade?

Mr. PROCTOR: There is no combine of that kind.

Mr. MACPHERSON: It is generally the case, though.

Mr. JUSTICE MACMAHON: I think it is generally the case.

Mr. MACKELCAN: It was at one time, but perhaps not so much so now.

Mr. MACPHERSON: Generally speaking, the manufacturer deals through the agent.

Mr. FLEMING: Does that apply to departmental stores?

Mr. JUSTICE MACMAHON: Departmental stores buy from the manufacturer.

Mr. KEMP: In reference to the departmental stores of Montreal, I can give you names of at least seven or eight here now that are worked on the same basis as the Toronto departmental stores; however, I do not think that would have any bearing on the question. I would like to ask Mr. Proctor a question, as he desires to tax all kinds of capital found in industry, whether he wishes also to tax the deposits in our loan companies and banks?

Mr. PROCTOR: The money that is in the bank is now taxable under the law, and it is one of the strange things that exists under our present laws that a man may have $10,000 in the bank, and he is assessable on that if you choose to assess him under the law as it stands. If he has $10,000 invested in a promissory note you can assess him on $10,000; if he has $10,000 invested in a mortgage you assess him on five per cent. that

he is getting out of the mortgage. That is the condition of the law at the present time. I believe, and I am quite in accord with that principle, that money that is in the bank, I don't think the assessors have pressed in any case to assess that ; it is one of the things that they have omitted. I think they have wisely omitted that ; that is my impression.

The CHAIRMAN : That is the law, that it ought to be taxed ?

Mr. PROCTOR : That is the law, and I would be reflecting on the assessors very often, because they must know that the wealth exists there and they have not enforced it.

The CHAIRMAN : And they are wise in not doing so ?

Mr. PROCTOR : I think so, I think perhaps that it is a wise thing.

The CHAIRMAN : Why ?

Mr. PROCTOR : Well, there is so much capital—you see the difficulty is as it has been explained, that many men who have come have been able to avoid assessment on the capital while they cannot avoid it on the real estate and other property that is visible, so that if the assessors could find out that A. or B. had $10,000 in the bank and single him out and make a sacrifice of him there would be a hundred men who would not pay, they would make an invidious distinction of him. If the assessor of the city made everyone who has money in the bank pay, that would be just.

Mr. JUSTICE MACMAHON : It would only be just to tax him what he received by way of interest upon his deposit. If a man had $10,000 there and not drawing a cent of interest it would be pretty hard to tax him.

Mr. PROCTOR : It would be, but there was the attempt to do that in funds that were in the hands of the Court here some years ago, and the law no doubt was that it could be taxed.

Mr. JUSTICE MACMAHON : A man has $100,000 invested in bank stocks or he has it on deposit. The income is only what he ought to be taxed on. If he gets four per cent. on that he has a tax on $4,000—not taxed on what he has on deposit.

Mr. PROCTOR : But the law says money in the bank, or promissory notes, are all personal property and they should be taxed at their face value. Of course if a man has a promissory note of $1,000 that he swore was not worth $500, we would not assess him on the face value of the note, we would assess him on what he considered was the face value of the note ; but money in the banks and promissory notes are all liable to be assessed to their full value, for the reason that I find the assessor very wisely very often says—

The CHAIRMAN : What is the use of a law that you cannot enforce ?

Mr. PROCTOR : That is one of the difficulties that you have to consider, and one of the conditions that is occurring in working out this law, that when you are attempting to get at the assessment of personal property or income it is very difficult to get at, but if the assessor was to go at it with the intention of assessing every man there would be no difficulty, and if the law was amended so that if any man gave him false returns, for five years after he gave that false return the assessor could recover the full amount of the taxes that he evaded by the false return, I do not see any difficulty, I do not see any reason——

The CHAIRMAN : All experience is against that, Mr. Proctor. You would have half the people of the city in jail. (Laughter).

Mr. PROCTOR : We are confronted with that difficulty.

The CHAIRMAN : It is the result of all our experience for the last thirty years that you have not been able to assess personalty with anything like equality. Those who do pay, pay the taxes of other people who do not pay.

Mr. PROCTOR : That is the reason why I say very often the omission to assess money in the banks and those promissory notes perhaps may have been a wise thing to do.

The CHAIRMAN : As the law stands it is not a right thing, and therefore it cannot be a wise thing. The truth is it is an impossible thing.

Mr. A. E. KEMP : I was trying to bring a little light to bear on the question. I asked Mr. Proctor if he was in favour of assessing deposits in banks. If he said he was I would like to know from him now if $100,000 that belongs to Mr. Brown in the bank is taken out and put into industry, whether that $100,000 should be taxed ; that is what I would like to know.

Mr. PROCTOR : Of course I do not wish to trouble the Commission, but if there is any distinction all we quite understand the peculiar position in which men who are engaged in

working industries are placed, the danger that they have perhaps, that arises from loss of life, and if any consideration ought to be given to any class of men who are putting their money into circulation for the purpose of giving employment to hundreds of men, consideration ought to be given to that class of people, that is if there is in any case. (Hear, hear) But you must remember that the real estate of this city, and nearly every municipality, is burdened as much as it can bear. Take any real estate owner to-day, and even with the very best returns he can get, fully one-third or one-fourth of the whole income must be applicable to pay the taxes that are assessed against it in the municipalities.

Mr. JUSTICE MACMAHON: Yes, but that is caused by very exceptional circumstances.

Mr. PROCTOR: That is caused by exceptional circumstances, but you must remember that those exceptional circumstances arose from the representatives of the people who are selected by the men who have personal property as well as those who have real property, and there is no control over the representative.

Mr. JUSTICE MACMAHON: Those who have personal property, and plenty of it, would not assist those who had real estate in doing what was done in this city.

Mr. PROCTOR: The people who have personal property and the representatives of the municipalities in the township councils, they act and deal with the funds that are placed under their disposal, and the selection of those men——

Mr. JUSTICE MACMAHON. I am speaking of the extraordinary expenditures that were made in the outlying districts of this city which brought this state of affairs upon us.

Mr. FLEMING: Which was made by the property owners themselves.

Mr. JUSTICE MACMAHON: Yes, well——

Mr PROCTOR: The representatives of the people were selected and they brought in blocks of land and improved those blocks of land that ought to have been improved by the people themselves: but what I was drawing attention to was that the burdens now cast upon real estate are so great that it would not be fair for this Commission to increase the burdens that are already now borne by the real estate owners.

The CHAIRMAN: I don't think we can consider that at all.

Mr. FULLERTON: There is one matter I would like to suggest here, where the wholesale men and retail merchants are present, which it seems to me has not been considered. As I understand it, both wholesalers and retailers fill up their stores twice a year, but the assessment is made only once a year, and if a stock that is bought and brought in in the winter for the spring should be assessed in its entirety, what reason is there why the second stock that is brought in in the spring for the summer and fall should entirely escape assessment?—Because the goods that are there in the spring and are assessed are not the goods that are there to be sold in the fall. They were assessed on $100,000, but $200,000 worth of goods passes through. If we are to assess all a man has, all the property that passes through his store during the year——

Mr. JUSTICE MACMAHON: If you were to assess on the turn-over?

Mr. FULLERTON: Well, that is property. The contention of Mr. MacKelcan, I understand, is that we assess allthe property a man has.

Mr. JUSTICE MACMAHON: There is no more stock in the autumn than there is in the spring

Mr. FULLERTON: But a different stock.

Mr. JUSTICE MACMAHON: There is a different stock, and if that is so there must be a turn-over.

Mr. FULLERTON: I am just wanting to bring out the fact that the contention that we must assess all that is in sight or all that comes in sight cannot be carried out. You must get at one of two things, either assess a man for the money he has got in the business, which is his property in the business, or you must get down to some business tax, because the other way is not logical in its results. You ought to assess all that passes through the man's hands, but you only catch him at one particular time, which perhaps he may prepare for dealing with.

J. J. MACLAREN, LL.D.: If the Commission has heard what was to be said regarding the departmental stores, I would ask permission to say a few words on that head.

The CHAIRMAN: Yes.

Dr. MACLAREN: I would just say that in addition to what was so well said by Mr. Fudger yesterday, nearly all of which I can endorse, I would just discuss one or two

points that were not touched on by him, and perhaps refer to some observations that have been made regarding the stores since Mr. Fudger made his statement yesterday morning. The remedy that is now suggested, to tax these departmental stores, is to put them in a different class from either the wholesale or the retail. The suggestion that was made in the memorandum that has been laid before the Commission is to adopt what is called a turn-over tax—rather, a graded tax, because it is not only a tax on the turn-over, but it is more than that; it is a graded tax, increasing according to the amount of the turn over. I notice in the paper a statement that is made regarding the schedule of the Berlin Bill, that where the sales aggregate 400,000 marks the tax is said to be 4,000, that is one per cent.; when you get over the million marks the tax is two per cent.; so that it is a graded tax from one per cent. to two per cent. of the turn-over. Well, now, I think all that has been said by the different gentlemen who have addressed you regarding the iniquity of this turn-over tax and its unfairness is probably well founded. I have heard no good reason advanced before the Board why the assessment should be made upon the turn-over. The same gentlemen who are promoting this proposal against the departmental stores have been before the Legislature for several years; in fact we were told by the Secretary that the schedule which they had laid before our Legislature was one of those which was considered by the Emperor William when he was preparing his Berlin Bill, and is partly based upon that. The proposition as laid before the Legislature was to tax all businesses on the turn-over. It was then shown by Mr. Elias Rogers on behalf of the coal business, and by another gentleman on behalf of another business in this city, that if that tax were made as then proposed, it would be away beyond the profits that could possibly be made out of those businesses. I forget the frequency with which Mr. Rogers said his stock-in trade was turned over, but it is a mere distribution; the goods are brought in here and they are turned over and sold, disposed of almost immediately. Another gentleman, representing a very large business interest in this city, said the greater part of their stock was turned over every forty-eight hours. So that one would see the unfairness from the business point of view of taxing a business on the turn-over in that case. The statement was made by the Secretary of the Retail Dealers' Association that in the jewelry business the turn-over was about once a year. Well, the profits would have to be enormously different between these two businesses; and I think that would show the tremendous consequences of undertaking to tax on the turn over principle. I think it is based on a wrong principle, for this reason: That the interest of the consumer ought to count for something, and I think that if there are quick returns, and consequently small profits, that the consumer gets the benefit, rather than the slow returns and the large profits if a business is turned over only once a year, as is said to be the case in the jewelry business—there must be an enormous profit. If a business is turned over ten or twelve times a year the competition will necessarily keep the profits down to a very small margin. I am not aware of any place where this turn-over tax has been practised for any length of time. The only instance brought before us was the attempt made in some parts of the United States, the passing of a law in 1897, I think, in Missouri, but there the law was attacked in the Supreme Court as exceptional and was set aside; so that I think the statement made on behalf of the Association that the principle they are advocating now is not in force in any part of the United States is probably correct.

The CHAIRMAN: It might have been good, although voided on the ground of unconstitutionality.

Dr. MACLAREN: I think the ground on which it was set aside was that of inequality, that it was unjust because being unequal.

The CHAIRMAN: An excellent law might be unconstitutional, as beyond the power of the State.

Dr. MACLAREN: But set aside as this was, on the ground of being unequal taxation, would be I think a good ground.

Mr. JUSTICE MACMAHON: That is discrimination, just the same as there would be in a railway act.

Dr. MACLAREN: Yes, the principle is the same exactly. I understand that what is in Missouri applies practically everywhere—that these things must be just and equal. Now when we come to this mere fact that this has been adopted in Germany within the ast year or two—the date is not given here, but it must be recently, if as was stated the

schedules that were submitted in Ontario and some of those Western States were before the German authorities when they were adopting this—I would suggest that Germany is not the place where we as Britons would go to look for enlightened legislation in that respect. As far as I understand the legislation in Germany, the paternal nature of that legislation, from the conscription onwards, is not such as meets with approval in Anglo-Saxon communities, and I think we ought to look to some place where—

Mr. JUSTICE MACMAHON: In Germany they have a law that prevents any more than a certain number of lawyers practicing in a town of a certain number of inhabitants, and only so many doctors can obtain a living there.

The CHAIRMAN: Nothing more wicked than that could be imagined. (Laughter.)

Mr. FLEMING: And only so many children in one family.

Dr. MACLAREN: I am a little surprised that these people should go to Germany and bring a bill here; I think it ought to be labelled "Made in Germany."

The CHAIRMAN: But if it was good you would not reject it because it originated even in Germany or Russia?

Dr. MACLAREN: No, I think even from Germany one could learn.

The CHAIRMAN: So that that argument is nothing.

Dr. MACLAREN: I think, however, that the principle is a vicious one, that is, the tax on a turnover; and I call your attention to this, that this proposal is not only a tax on the turnover but it is also a graded tax, that is, as the sales increase. It is really putting a tax upon enterprise, that is what it is. In addition to violating the rule of "quick returns and small profits," it is putting a tax upon enterprise by saying that the more a man enlarges his business, and consequently enables him to sell cheaper to the community, that he has to pay a higher rate of taxation even in proportion to the amount of business that he does; so that I think that is a reason for not adopting this principle, which has not been recognized as yet under our system of taxation. With regard to a number of these charges that were made against departmental stores I think a great part of that does not come within the scope of this inquiry; but even if departmental stores in their method of advertising and in their methods of business were resorting to methods—

Mr. JUSTICE MACMAHON: We have nothing to do with that.

Dr. MACLAREN: That, I take it, is beyond the scope of the Commission, so that a large amount of the charges and the so-called evidence—

Mr. JUSTICE MACMAHON: They might have a hundred bill boards if the municipal law did not prevent them.

Dr. MACLAREN: So that if there is dishonesty the criminal law will reach the dishonesty.

The CHAIRMAN: There is no occasion to make any observations on that.

Dr. MACLAREN: No, I think that may be passed without observation. I think a number of these evils that are attributed in this city particularly to departmental stores are imaginary, and I think a great many of the results of the late unfortunate boom in the city are attributed to these stores simply because they were contemporaneous with those changes. I was struck by the statement that was made by the Assessment Commissioner of Toronto yesterday—the fact that the inflation in store values had been very large in this city, and that had been supposed to be a very favorable form of investment; and one of those connected with the Retailer's Association who made a statement before your Board set out his unfortunate investment in that kind of property in this city, and how disastrously it had resulted. Now I think there are other causes to seek for that rather than departmental stores. I heard a statement made some five or six years ago by one of the large property owners of this city, that he had obtained it from a gentleman from the other side who was getting information upon this point and had been examining the conditions of this kind of trade in some American cities and had come to Toronto, and he gave as the result of his observations at that time, some six years ago, that the mileage of the retail store fronts in Toronto was nearly equal to those in Buffalo and Detroit combined—Buffalo, a city nearly twice as large, Detroit, considerably larger than Toronto.

The CHAIRMAN: Do you contend in point of fact that the enormous business that is being done by these stores here in Toronto has not produced its effect upon small shop-

keepers, that their trade has not been very much diminished, that the trade they used to do is now done by those stores? You do not dispute that as a matter of fact?

Dr. MacLaren: My answer to you on that point would be this: These departmental stores do a large trage in the city; they also do a large trade in the portion of the country from which the purchasers can come personally to the city: a very large part of their trade comes from mail orders, which are beyond those limits that I have spoken of; and in fact, as was stated by some of the gentlemen that were here, they go into all the Provinces of the Dominion. One gentleman from Hamilton spoke about meeting them in British Columbia and the North-West, and I myself have seen some of their wares down in the Maritime Provinces, so that a large part of the business of these departmental stores is done outside of the province. Another large part of it is done in parts of the province remote from the city. Of course a large part of it is done in the city. So far as their city trade is concerned they must have interfered with retail stores.

The Chairman: Very seriously?

Dr. MacLaren: Very seriously.

The Chairman: And with stores in country towns?

Dr. MacLaren: To a considerable extent, I think. Where a statement of vacant stores is made we know it is in the last five years that there has been this large increase in the departmental stores. Now, I attribute the vacant stores and the trouble of the retail dealers and the owners of the retail stores very largely to the boom, more to the boom than to the departmental stores. Now it is notorious in the last five years the departmental stores have increased; yet I find in the City of Toronto Directory that in 1895 the number of vacant stores was 758; in 1896, 595; in 1897 down to 466, a drop of 130; 1898, 354, a drop of 112; in 1899 it had gone up to 465—the only increase during the five years. In this present year, 1900, the number of vacant stores in Toronto was only 316. So that while departmental stores have been growing during those five years, the number of vacant stores has gone down from 758 to 316. Now that is a very remarkable statement, and will show that the growth of these departmental stores has not been having the whole of the injurious effects that it is generally represented, and that I think are popularly believed to flow from them. I think there is this also, that a large part of the increase has come from improved conditions and circumstances of the people. It is generally said that the last two or three years have been very profitable and prosperous years, and they have prospered with the rest of the community. Whether they have prospered unduly or not I think will depend on enterprise, but as was remarked by the Chairman, others have the same privilege of prospering that they have. I was struck by another circumstance mentioned by the Secretary of the Retailers' Association. I think he said that he himself had been a jeweler, and he spoke of that trade with special and particular knowledge. The suggestion was that these departmental stores had had such a very injurious effect upon the jewelry stores. Well, since that evidence was given I notice that starting from the corner of King and Yonge streets I found a very flourishing jewelry store almost at the corner of King street, but as you walk up Yonge street you find seven or eight first-class jewelry stores, evidently prospering and increasing. One of them on a corner just doubled its size within the last few months; another one very recently divided into two, and they have now two stores, two former partners having gone on. Before you get up to the first departmental store, only two or three blocks, you have six or seven of those flourishing jewelry stores, and right in the heart of the first departmental store you have another jewelery store; so that as far as I can observe, the jewelry stores of this city of Toronto are very creditable and among the most flourishing. As to whether these departmental stores have been drawing to themselves business that properly belongs to others, I have heard no sufficient reason why they should be singled out for special tax. I think the same methods, the same means of enlarging business, is open to others. If that is the trend of business at the present time I do not think taxation is a proper remedy. I think if the large stores are going to supersede the small, the same as large factories have superseded small factories and mills in the houses or shoemaker's bench in a house—they cannot to the same extent, because I think the reason is that in a departmental store you can practically only go and buy something when you know what it is, and cannot depend on the advice that is given.

Mr. Justice MacMahon: I suppose in a departmental store that they do not keep diamonds and expensive jewelry?

Dr. MacLaren: No.

Mr. Justice MacMahon: And they do not make it up?

Dr. MacLaren: No.

Mr. Justice MacMahon: And what they keep is what is in every day demand in the way of plated and silverware, and spoons and knives and forks and things of that kind?

Dr. MacLaren: Yes.

Mr. Justice MacMahon: But if a $500 diamond ring is wanted they go to the other establishment?

Dr. MacLaren: I think so. I think the principle is that these departmental stores—doing it in the gross as they do—that any person who wishes to go and consult a seller and get a price which is not given, when they want to go to make a choice, they will almost necessarily go to those places where they have got a special knowledge, rather than go to a department where a large number of articles—cheap articles as a rule—are strewn before one, and you take it away. I think it is a rule of those large stores that they allow the goods to be returned if they are not satisfactory, as a reasonable safeguard, and that I think adds to the business that is done. A person goes and buys on a venture, and if they don't get what suits them they can return it. I would just say I think, certainly for the one for which I am authorized to speak, and for the other, that they are willing to bear their fair share of taxation. They are not so careful about the method that is adopted. They are willing that any method should be adopted that is fair for the whole community. Any fair system of taxation I think they are ready to accept. Although a large part of their business is done outside of the Province, and to that extent the same principle that was laid down regarding the wholesale trade would apply to them in part, I am not instructed to say that they have any grievance or that they ask anything on that score. They are satisfied with the system of taxation. They are not wedded really to any principle. All that they ask is that there should be a fair principle. They know of no reason why they should be discriminated against. And to remove the impression regarding the statement that was made as to the assessment of one of those that was singled out, I just got from the Assessment Department a statement that so far from it bearing the construction that they escape their just share of taxation, that as regards one of those the assessment of their realty is some $435,000, the assessment of their personalty, of their stock-in-trade as fixed by the Board of Revision—against which an appeal has been ordered, and it would be for the County Judge to determine whether that it is fair or not—was $450,000. So that as it stands now, as fixed by the Court of Revision, that one concern at the rate of taxation fixed for the present year would pay over $17,000 of taxes. I notice that it was considered a large amount of taxes that a very large wholesale house like Mr. Brock's should pay some $3,500; but even at the rate of taxation of this concern to-day, the taxes for this next year will be over $17,000, so that I think that does not look as though they were likely to escape taxation if the present assessment stands. As I said, I have no instructions to speak as to the mode of taxation, and I am not speaking for my client or principal when I go beyond that; but I would say personally if the Board would just listen to what I have to say, having some knowledge of the taxation both in Montreal and in this city, I have all along thought personally that the Montreal method was more equitable than the system in Toronto.

The Chairman: Is it confined to the City of Montreal, or is it provincial?

Dr. MacLaren: It is not provincial, although I may say it is general, but it is under different laws. There is a difference between Ontario and Quebec in this respect, that while the whole rural part of Quebec, that is the rural municipalities, villages and small towns, are under the Municipal Code, the larger towns are under what is known as The General Provisions of The Town Corporation General Clauses.

The Chairman: Special legislation?

Dr. MacLaren: Well, special legislation for towns as towns. They have special charters in which the provisions of the town corporation general clauses are more or less applied. When you come to the cities they have their own special charters.

The Chairman: In Manitoba they have an assessment applied to Winnipeg in 1893 and they have a special system applied to Brandon which was different from that in Winnipeg.

Dr. MacLaren: In Montreal and I think in Quebec, this tax on rental applies, and all the cities of Quebec, with some differences. I am more familiar with the Montreal system, and so far as my experience went when I was in the city, and which I have been able to obtain since, I thought that was a very equitable system. There was only one complaint that I used to hear regarding it, as to dishonesty. I think on the whole it was more uniform and there were less ways of evading. The rental there was obtained by a valuation, and the actual rental was supposed to be the test. That led to people keeping down their nominal rental when they were assessed in that way, and I have heard that there were occasions where the lease between the landlord and the tenant did not show the actual rent which was payable, and that they endeavoured to evade the law in that way. However, if this board should recommend the alternative system that is found in section 36 of our Assessment Act, that is the assessment on rental, properly known as the business tax, I see that there is a sub-section 2 which would get rid of the evil which I have spoken of in the Province of Quebec, in Montreal at least. Sub-section 2 says: "For the purposes of this section the annual value of the premises in which the business is carried on shall be taken to be the amount represen ing seven per cent. on the assessed real value of the said premises." Of course if that or some such principle were adopted it would get rid of the opportunities for fraud of which I have just been speaking in connection with giving an honest statement regarding the rental that was paid. Some years ago I was interested myself somewhat in thus showing the inequality, and I think the injustice of the personal assessment, and spoke to some of our municipal authorities about their adopting the Montreal method or something of that kind. At that time at the request of the Mayor, the Assessment Commissioner took the law as laid down in section 36 to see how it would work out in the city of Toronto—took I think a wholesale section from the Esplanade up to Colborne St or thereabouts, and had the accountant work it out, and the information I then received was this: That applying seven and a half per cent. to the rental would not give at that time as large a return as they were getting from the personalty tax.

Mr. Fleming: Nothing like.

Dr. MacLaren: That was the statement that was made. I suggested that if seven and a half per cent. was not enough that they might ask the Legislature to make it ten, if that would be fair, or raise the amount. The other objection that I have heard urged is this: That if you adopt this principle you remove the load from the wholesale man and the large dealer who is able to pay, and you put it upon the smaller dealer. Well, if you wish to avoid that I do not see the impracticability of adopting the same principle as now prevails in the assessment of income. Small incomes of $700 and under are exempt, and you deduct $700 from every income. If this was thought to bear too hardly upon the small dealer who perhaps rents a place, only paying two or three hundred dollars a year rental, that of course would be very small, it might be equalized by not assessing the very small ones and deducting the two or three hundred dollars from every merchant. That of course would relieve the very small dealers and they would feel it the more, and it would not probably be very appreciable, what would be taken from that, because it would be only a small amount.

Mr. Fleming: Throw it on the real estate?

Mr. Hutton: Throw it on the real estate.

Dr. MacLaren: Well, the statement is made that real estate has got all that it can bear. How well founded it is I do not know, but probably the wholesale men would not object to such a concession as that in order to get a better system. But so far as my observations and experience has gone, I do not think you could devise any scheme very much better than the present to encourage dishonesty in making assessment, and that it is only the wise discretion that is used by the assessors that prevents the present law from being actually unbearable.

The Chairman: From the point of view of the department stores what do you say as the clause permitting the deduction of the duty from the value of the stock?

Dr. MacLaren: As the law now stands you would get double taxation if you assessed book debts or money as it is put on. For instance, the wholesale man here sells $20,000 of goods to a retail man who pays half $10,000. As the law stands it is equitable now. The retailer would pay his tax on his $10,000; the wholesaler would pay his tax on the $10,000 of cash.

The CHAIRMAN: I understand how it works out now.

Dr. MACLAREN: If you made personal property subject to assessment you would have double taxation if you tax the debts. I think, however, the principle of taxing debts is an unsound one, that is what it comes to. It is pretty hard to tax a man on his debts, and that is what it would amount to if he owes on his stock, and you tax him on that. Such a man is not very well able to pay it, and I think it would equalize itself in this way, that a man who has got his cash capital and can pay cash for his goods, gets a discount for payment of cash that is more than equivalent to the taxing which his neighbour escapes. I do not think the hardship of people who are able to pay for their goods is as great as can be supposed, because I think they have other advantages, and I think that would tend to equalize itself; that if you tax it the other way the rate of interest more than compensates I think for any inequality there is in that respect. There is inequality, but I think you will have inequality in any system, but so far as that goes it is more equitable than any changes I have suggested.

Mr. JUSTICE MACMAHON: I suppose if a man pays spot cash, as it is called, for all his goods he has a good many advantages?

Dr. MACLAREN: Yes, he buys cheaper, he gets several discounts. My belief is it is a matter of mere speculation—that if a man who can pay cash for his goods and consequently ought to pay according to the law as it now stands on the full valuation of his stock, that he is better off than the man who—

Mr. JUSTICE MACMAHON: That is not the reason why he should be taxed on a different footing.

Mr. WILKIE: That is not the experience in England. A good man, perfectly solvent, cannot buy there any better for cash than he can on the regular terms of trade; he cannot get the discount, and I do not think here in Toronto that a man recognized as being perfectly good can buy to any better advantage by paying cash than by buying on the usual terms and giving his note for it. I do not know that W. R. Brock & Co. would do any better by paying cash than by giving their note.

Dr. MACLAREN: I say if the retailers buy from wholesalers. I have the bill heads of those merchants and I see—

Mr. WILKIE: That is a different principle.

Mr. JUSTICE MACMAHON: On the bill heads of the boot and shoe trade there are three discounts. When I was practising I made some few collections in my day and I used to see no less than three discounts.

Dr. MACLAREN: In my simplicity I supposed those things meant what they said.

The CHAIRMAN: Do you suppose departmental companies would buy on more favourable terms for cash than on credit?

Dr. MACLAREN: Mr. Wilkie would know that better than I.

The CHAIRMAN: Was it your notion that they would?

Dr. MACLAREN: Well, as to whether they do, I think the man who runs successfully a department store would take the method that would get the best return, because I do not think he would succeed unless he did, but I do not know whether the manufacturers allow those discounts or not.

Mr. WILKIE: But you refer more to the purchase by retail merchants?

Dr. MACLAREN: From wholesale ones.

Mr. WILKIE: You are quite right in that

Dr. MACLAREN: We lawyers, when we get bills for collection see that on the billheads; I drew my inference from that.

The CHAIRMAN: If a man of capital buys for cash and gets better terms, what right has the city to take advantage of that?

MR. FULLERTON: That is the question.

Mr. JUSTICE MACMAHON: If he gets the benefit of his cash the city ought not to take advantage by taxing him.

Dr. MACLAREN: No. There are two principles that are spoken of here on which taxation might be based; one, the services rendered, and another has said his ability to pay; and the third principle that is recommended by the retail association is to wipe out a business because it ought not to exist at all. Of course on services rendered he certainly has no claim. On ability to pay, if that be the ground on which taxation should be based, then of course the man of capital perhaps ought to bear more; and on the

third ground, if taxation ought to be devised in order to wipe out the business altogether and prevent a man from doing business, why, I do not know that that can perhaps be upheld on any sound principle that I know of.

Mr. E. M. TROWERN: Might I just correct a little error of Mr. MacLaren? The Missouri bill that Mr. MacLaren speaks about was proved unconstitutional from the fact that a clause was placed in there that any store employing over fifteen employees should pay a larger taxation, and it was that clause that made it unconstitutional, and the other clauses were correct. Mr. MacLaren has a wrong impression of the turn-over tax, and the other question was that a department store was not, as I understood it, an issue in this investigation. Well, with the Retail Merchants' Association it is one of the chief issues, because the whole question of taxation, no matter how it is applied, will depend largely upon the tax that is placed on the man that takes all our trade away. It don't matter how much tax you place on a man if you don't give him the trade to pay the tax. A statement has been made here that one store did a business of eight millions. Well, the retail merchant in Toronto, from the statement I get from the assessor, are taxed on personalty on three millions. The wholesale merchants, who claim they are unjustly taxed, and make out a good case, are taxed on $1,700,000 personalty, and the manufacturers on $500,000. So that statement shows that the retail merchants are paying on three millions of personalty. They are the largest taxpayers on this very question we are discussing now, and if you take away the ability to pay taxes—which you are doing when you concentrate the trade in the hands of a few people—no matter what tax you place upon us, whether it is on the rental value or on the present system, it is a very important matter to us to have this extra license, which is practically an extra tax. Our desire is not to wipe out the department stores; we do not care if the department store takes hold of one of these groups of business we have referred to, and they will then pay whatever tax we agree upon, but whenever they get into another group, they start to pay a license or a special tax, but also pay the same tax that would be adopted by the municipality generally. If the rental tax was applied as the Board of Trade desire—and as we desire if we can get this extra additional license or tax on the groups—the department store tax would be still reduced, because Mr. MacLaren states that they are paying now $17,000 of taxes. Well, if they were not there other merchants would be there, and they would probably be paying more than $17,000; so that cuts no figure at all. As a matter of fact the property adjoining the departmental stores is less valuable owing to its earning power; and I start in not from the land and go up but from the top and go down. A piece of property is worth nothing if you cannot realize on it, and it is the amount of business that determines the value of land. You may try and figure up the land, but it is worth nothing at all if there is no business done on it, consequently there is no desire to tax on it. I do not wish to have the impression left that we want to destroy the department stores. We have no enmity against department stores, but we don't want them to take certain staple lines of our goods that are profitable—the spoons and the forks and the knives and various lines oftener than diamond rings--

The CHAIRMAN: You gave us all this before.

Mr. TROWERN: I am illustrating that that is what is taken and gives us the earning power, that is taken from us. In 1897 the city council unanimously passed the turn-over tax bill, and when we came before the Legislative Assembly, the committee accepted it, and it passed unanimously there until little features like the coal business and others that were not represented in the other discussion came up, and we have brought it in now in a modified form.

Mr. MACKELCAN: I shall endeavour to condense into as brief a form as possible the observations I shall address in reply to what has been said; and I will begin by saying it is very gratifying to hear that every speaker has entirely agreed with one of the propositions advanced by the Ontario Municipal Association, that is, that that the Assessment Act should be so arranged as to distribute the burden of taxation more equally, and with this end in view the assessment of personal property should be made without regard to the debts being counted. That clause entirely defeats the main object of the Assessment Act, that is the equal distribution of the burden of taxation. Also another proposition which I advanced earlier in this discussion has been confirmed by those speakers who touched upon the subject, that is that all property should pay municipal taxes according to the

services rendered by the municipality. That doctrine has been enunciated twice by Mr. Allan, and also by Mr. Rogers, the president of the Retail Merchant's Association. That is the principle that the Municipal Association are endeavouring to carry out The municipalities are not interested in favouring either one class or another of the inhabitants. Their desire is to raise as justly and equally as possible from all those that are benefited by the expenditure, the moneys that they require for municipal purposes. The view taken by the Association which I have endeavoured to urge is that all visible tangible property which does derive benefit from the municipal expenditure, to which the municipality renders service by that expenditure, should contribute towards it ; and no one has gainsaid that principle. On the contrary it has been confirmed by all those who have referred to the subject during this debate. Then of course comes the practical difficulty as to how to arrive at that conclusion.

The CHAIRMAN : In other words, how to make it visible?

Mr. MACKELCAN : No, not to make it visible, because the property I speak of is all visible. Much stress has been laid upon the difficulty of valuing personal property. Now there is in fact perhaps less difficulty in arriving at the valuation of visible personal property than there is in arriving at the value of real property. You take a large fire and a heavy insurance claim. You find in the course of a week the appraisers for the insurance company and for the merchant have gone into the whole matter and have arrived at an adjustment It is not difficult to find out the value of a merchant's stock. In an establishment were the proper records are kept there is an annual stock sheet, or a stock sheet taken oftener than annually. Then you have your merchandise account in which all the purchases of goods are entered and in which all sales of goods are put down on the other side. A man takes his stock sheet, he takes the record of his purchase and the record of his sales, and he knows what there is left. If his merchandise account is properly kept, there should be no difficulty in any merchant stating upon oath approximately the value of the stock in his warehouse at any time that he might be called upon to do so, and we find that when fires happen and it is necessary for a mercantile firm to make up the account of its loss, it does not take them long to show the figures or to establish what quantity of goods they had there and what their losses had been by the fire. Notwithstanding the additional difficulties that surround a valuation after a fire, that is, the estimate of the extent of damage done to the goods that are not totally destroyed, it only takes a few days usually to arrive at a conclusion, and we rarely see these valuations disputed except where fraud is charged or suspected. In arriving at the valuation of real estate you have to take a great many elements into consideration that do not affect the value of personal property. These personal property stocks of merchants have a commercial value, that is well known. The invoices and catalogues are there, the value of these goods can be ascertained in a large stock within probably a few thousand dollars ; but in assessling and and buildings, a great many elements may enter into the question of the valuation of that property, and there may be more wide differences of opinion in regard to it. So that so far as the practical difficulty is concerned of ascertaining the value of personal property of that kind, as compared with the ease of arriving at the valuation of real property, I think the position is rather reversed, and you can more readily arrive at a consensus of judgment, suppose there are several engaged in it, upon the value of a stock of merchandise, than you can upon the value of a real estate assessment of land and buildings. That being the case, it seems to me that objection, which has been very prominently urged, must be removed. The difficulty in valuing personal property which has been so much dwelt upon as arising from this deduction of the debts, and we know that schemes can always be worked by which this debt can be placed upon the personal property. I know of an instance where a company carrying a very large stock of very valuable and very dangerous goods, combustible goods which required more than ordinary protection from loss by fire, instead of paying up their capital stock, which would have made their personalty liable to taxation, issued bonds to an amount in excess of their capital stock and then contended that those bonds were an indebtedness against their stock in trade, although they were practically the same as the capital stock ; they held the bonds instead of holding stock, and put their money into the concern simply by way of purchasing the bonds instead of paying their capital stock, having their capital stock unpaid. Well, that shows the devices that can be exerted to cover up the taxation of the stock in trade under the present system. However, that is only an argument for the repeal of this deduction

of debts from the value of the personalty, which seems to be uniformly condemned at any rate, and possibly it is only a waste of time to say anything on that subject because the opinion is so strong against the retention of that exemption that I do not think it seems to have any friends or anybody to say a word in favour of it. Now, with regard to the assessment of personal property of merchants, I cannot say that I admire as a whole the system of Montreal which has been so much vaunted. I will give the Commission an idea of some of the workings of it. It has been shown here that a gentleman carrying on iness with a million dollars capital, turning over his stock four or five times a year at a profit of five per cent, could do business in Montreal upon an annual payment of taxes of $300—seven and a half per cent on $4000—so that that would be the entire amount of his business tax. But in this same by law which imposes that tax, here is another clause : Every clerk employed by an auctioneer to cry an auction is to pay a license of $40." This poor fellow who is trying to make $800 or $1000 a year is obliged to pay into the city treasury $40 for the privilege of doing so, while the wholesale merchant who is making over $100,0000 probably would only have to pay $300.

Mr. KEMP : What is the incidence of that $40 tax ?

Mr. MACKELCAN : I do not know, but I am speaking about the equality of the tax—the poor man who is taxed $40 for trying to earn perhaps $1000 a year, and the merchant who is making perhaps $100,000 is only taxed $300.

Mr. KEMP : That is a license, not a tax.

Mr. MACKELCAN : But that takes the place of a tax on personal property, and that is what you propose to substitute here.

The CHAIRMAN : The argument seems fair. It goes into the municipal treasury whether you call it a license or a tax.

Mr. MACKELCAN : It shows the gross and unjust inequality of this much-vaunted system that they would endeavour to import from Montreal to Toronto. Of course they pick out just so much as would help the rich man.

The CHAIRMAN : Do you say an auctioneer's clerk has to pay $40 a year ?

Mr. MACKELCAN : $40 a year for the privilege of being an auctioneer's clerk, and the auctioneer has to pay $200.

Mr. MACPHERSON : We do not have to adopt all the bad features.

Mr. MACKELCAN : But this is all in one by-law. What I am saying is that this is invoked as a model for us to follow.

Mr. KEMP : That part of it.

Mr. MACKELCAN : You pick the part that is good and then you discard the other ; but this is held up to us as a sample of enlightened legislation, and we are said to be behind the times. (Hear, hear) Does that gentleman say "hear, hear," to a tax of $40 on a man that can only earn $800 a year, and $300 on a man that can earn $100,000 a year ?

Mr. MACPHERSON : We are not treating that at all.

Mr. MACKELCAN : I am speaking of the system of taxation that has been invoked as a substitute for our system of taxation.

Mr. WILKIE : It has been the rental tax that we are hearing about ; licenses have not been discussed.

Mr. MACKELCAN : It is all in the same section of the by-law.

Mr. WILKIE : I should suppose that the rental tax would be higher here than it is in Montreal so as to make it for other forms of taxation.

Mr. MACKELCAN : I was dealing with this Montreal legislation as a whole.

Mr. MACPHERSON : But we have not been asked to adopt that as a whole.

Mr. MACKELCAN : You have been asked to pick out one section. I rather think several gentlemen appealed to this Montreal Act as a whole as being one that we might copy very fairly and very justly, and it has been held up before us as an example of their advancement as compared with our backwardness. Now, that portion of the subject it seems to me is already covered by the permissive provision in our Assessment Act, clause 36, enabling the Council to adopt the business tax here ; and it seems to me that the gentlemen are not addressing the proper forum upon that subject. If they want to avail themselves of the law as it stands now, as the law they advocate, they do not need to ask for any change in the law.

Now, it seems to me if these gentlemen had given the City Council the benefit of their eloquence upon these subjects, and their advanced views, they might have successfully addressed that forum upon this subject, but I do not understand that they asked any change in that law; they simply asked to have that law put into force, and the means of putting it in force are within their reach. If they can reach the representatives elected by themselves and convince them that this system would be beneficial to the city of Toronto, no doubt that by-law would be passed; and I might say, referring to the provisions of this Act, it does give the Council power to discriminate between different classes, between the wholesale and retail, and I suppose between different classes of retail merchants, and so impose a different rate of taxation on one from what is imposed on the other. I was very much impressed with the suggestion of a business tax upon merchants. No doubt many retail merchants have to use premises more attractive in character, much better situated and have to pay much higher rental than probably the wholesale merchant who is making a much larger profit or quite as large a profit. I do not think myself that the rental value of the premises occupied is any index whatever as to the amount of property that is protected by municipal expenditure in a building or the amount of business done. I do not see that they have any relation, and there comes in the element of inequality. I might say that there is this weakness about the suggestion to tax upon the profits: it would just introduce what is desired on the part of the municipalities to avoid altogether, that is the inquisitorial nature of the assessment, that is to say, the necessity of making any inquiry into the private concerns of any individual or partnership.

Mr. JUSTICE MACMAHON: I do not see any more difficulty as far as that is concerned than under the Inland Revenue laws.

Mr. MACKELCAN: Then there is difficulty. It is a question of profit. Suppose a merchant has a stock of say a couple of hundred thousand dollars of goods in his warehouse. He is one of those who urges an improved water supply and better fire department because he has a very large amount at stake; that if these improvements are not made he will have to double his rates of insurance, &c., and he calls upon the municipality to expend money to provide these things that are necessary for the protection of his stock. He has had his stock there protected the whole year. At the end of the year he says, "Well, this has been a bad year in business with me, I have not made any profit, I have nothing to pay in tax." He has had the protection afforded by the municipality, he has had the benefit as these gentlemen say, of the services rendered by the municipality, and yet he has to pay nothing for that, because perhaps his business methods have not been as well devised as they should have been, or competition may have been so great, or he may have met with losses of bad debts and so be enabled to show that he has realized no profit. It practically makes the municipality a partner of the merchant. The revenue is derived then not according to the protection that the municipality has afforded to this man's property, which it has been spending money to take care of, but it depends upon how fortunate the man has been in his business ventures during that year. The one subject bears no relation whatever to the other. There is one solid tangible thing we have, that is the service rendered by the municipality to the owner of this property in its protection; that is all the municipality asks to be paid for, but they do not want to enter into a man's business to find out whether he has been making a profit or incurring a loss, or find out the reason why; they don't want to enter into partnership with him in any way. It is said that this tax would be a very great hardship. Now real estate is taxed not only for the full general rate of taxation for all purposes of this kind, but real estate has to pay very heavy taxes for local improvements which are imposed upon the real estate only, and I understand in Toronto those taxes for local improvements are somewhat heavier than the general taxation. An owner of personal property, a gentleman, showed me a tax bill of his own only yesterday.

Mr. FOREMAN: That is so on some vacant lots.

Mr. MACKELCAN: There at any rate is a very large proportion of the taxes which the owner of the personal property escapes altogether. He gets the benefit of those local improvements without being called upon to contribute from any source towards the payment of the moneys expended for those local improvements; nor as I pointed out before, does the owner of personal property contribute anything towards the water rates, which

are imposed wholly upon the real estate. It is only one of the three classes that are imposed on the personal property; the other two, the local rate and the water rate are imposed on the real estate. The owner of personal property complains that if he were assessed to the same extent as the owner of real property it would be an injustice to him notwithstanding, as I pointed out, that he only pays one of three classes of taxation. Now, it being admitted that the present method of arriving at the assessment is unjust, what is best to substitute for it? The merchants have complained that to assess their stocks at their full value would be practically prohibitory. Well, if the Commission think so, and think that while the tax should be based upon an equal incidence of taxation upon all classes of property benefited by it, but that real property should be favoured exceptionally, then do they suggest that it might be taxed at fifty per cent. of its value—that is, visible and tangible property? It seems to me if a tax imposed upon the full value of that property would be unjust, a tax based upon a proportion of the value might nevertheless be very just; and if you impose a tax according to the value of the property itself, the property protected by and receiving the benefit of the municipal expenditure, that is a proper and fair way to distribute it. Now, I don't wish to speak in any way as an advocate of one view or another; I wish to speak from the standpoint of the municipality in order to arrive as nearly as possible at some fair and equal method of distributing the burden of taxation. I do not think it can be contended by anybody that this visible tangible personal property that does receive the benefit of the municipal expenditure should escape taxation altogether. It is also admitted that the taxation on that class of property, if it is to be taxed, should be distributed fairly. Then if the whole value of it should not pay, then let the like proportion of the value of that property pay in the hands of everybody who has it in his possession. The commission will observe that they were asked to have the method of assessment varied in this way, that the personalty shall be assessed where it is, no matter in whose hands. It is receiving the same benefit whether the owner of it is living in Montreal or Toronto, whether it belongs to a Glasgow house and the Toronto man is simply a debtor for it and carrying on business for the benefit of the Glasgow man; but let the property itself that is receiving the benefit be taxed just as real estate is taxed irrespective to whom it may belong, and let it be taxed where it is receiving adequate municipal benefits for protection. All that property is liable for taxation. Of course the scheme of the Municipal Act is one that should bear equally on all if it could be carried out; that is, that all property in the Province should be liable to taxation. I qualify that by this, that so far as taxation for municipal purposes is concerned the tax should be levied upon all those classes of property that receive benefit from municipal expenditure. With reference to the suggestion of Mr. Allan that we ought to adopt the Glasgow system of taxing everything—

The CHAIRMAN: If it is suggested to tax the income of merchants from their business as a substitute for the tax upon their stock in trade, then that is before us.

Mr. MACKELCAN: I might say that the gentlemen from Hamilton drew a very strong contrast between the merchant and the professional man, for instance, the merchant who is taxed upon all his goods while the professional man is only taxed on income; but there is this difference, all a professional man has is his intelligence, his education, his industry.

The CHAIRMAN: Why should he not be taxed on his education?

Mr. MACKELCAN: He is not asking any fire protection for that; he is not asking for municipal expenditure; he is not calling upon the City Council to spend two or three or four or five thousand dollars to improve the water system and establish an expensive fire brigade, to make various expenditures of that kind for the benefit of the man who owns tangible goods that he desires to have protected. He does not say, "Well, the insurance company is going to put up my rate of insurance if you don't do this." He cannot insure his brains and his intelligence. He does not have to call upon the municipality to aid him at all.

The CHAIRMAN: He comes to a place like Hamilton and he says, "This is a fine prosperous town, it is a good place for me to settle down and carry on my business as a lawyer."

Mr. MACKELCAN: Yes, certainly.

The CHAIRMAN: And he makes it so.

Mr. MacKelcan: If he could have $100,000 worth of property around him there, then of course he would be quite willing to be taxed upon it, but he has not got it, it is in the future; some day when he is worth $100,000 he will pay on that $100,000.

Mr. Justice MacMahon: You mean it is *in nubibus*?

Mr. MacKelcan. Yes, these accumulations are all the results of industry. Now, as soon as the lawyer has made a couple of thousand dollars by his work he is taxed on that as his income. As soon as he gets any property, the result of his energy, if he makes two or three thousand dollars a year of income he is taxed on it all. Well, it is personal property, that is all there requiring protection, has been acquired as the result of expenditure of one kind or another, but it all there and all needs care and protection and calls upon the municipality to give it that protection which the municipality affords. A man who has no personal property but simply his own energy and intelligence does not call upon the municipality to expend anything to protect that for him. There is where I say comes in the principle which is admitted on all hands, that property in the municipality should be taxed according to the benefits received. Now take the materials that go to make a building. Those are personal property before they are put into the building. The moment they are put into that building they are taxed not only at their value as materials but also something added by reason of the manner in which they are placed; but according to the views of the gentlemen who addressed you here, until they were put into that building they should not be taxed at all, but the moment they become annexed to the freehold then they become subject to taxation although they are property in the other position requiring less protection than before they were put into the building. I do not think on principle there can be any answer at all to the proposition that all property that derives benefit from municipal expenditure should contribute towards the funds to pay those expenditures; but the argument that is addressed to you is, "Oh, if you do this you will drive us out of business." That is all Of course the rich man who has a million dollars worth of goods would not have to pay any taxes if he did not have the million dollars worth of goods, and probably there is not another member of the community who would not be willing to exchange them—to take the million dollars worth of goods and pay the taxes on that; but the richer a man gets the more he objects, somehow or other, to pay taxes—I have noticed that. But these taxes that are to be paid by a man holding a large amount of goods are held before you to deter you, but they forget that his profits are proportionately large—everything is large, everything he is bringing in is in large amounts; then he asks in that case, "What I pay out for municipal protection should be in the same proportion as the man who has not accumulated his million:" but the moment he has accumulated his million he does not want to pay on that. Take one hundred men, they have $1,000 property in a city, each one taxed on that $1,000 worth of property for its full value, and the one hundred have to contribute the full value on it; but if that $100 000 was all in the hands of one man he would say, "I should not be taxed on this, it is too heavy, more than I ought to pay," but if it was in the hands of 100 men he would not think there was any injustice in them paying it all. If we could make every man pay according to his means and could tax all classes of property in the community, then the rate of taxation would be very small, because if all wealth paid, the result would be that it would only be a small percentage on the entire value. I would say that the assessment of the city of Toronto does not represent anything like the total wealth of the city. The total wealth is more than ten times, a great deal more than ten times, what the assessment shows.

The Chairman: Your proposition is that the whole of that property ought to be assessed?

Mr. MacKelcan: No, I say if it is true that all wealth ought to be assessed as many speakers before me here have advocated, that then the rate of taxation would be very low.

The Chairman: That is your proposition too, isn't it?

Mr. MacKelcan: No, my proposition is that all visible personal property that derives benefit from the municipal expenditure should pay, but I would not ask that all other classes, the assessment of personal property should be done away with There is no question that real estate should pay; there is no question that visible property should pay. When we come to the question of income and deposits we have more difficult questions to consider. As to realty and personal property of a more tangible kind so that it receives the benefit of municipal expenditures, those two classes should certainly pay.

Mr. WILKIE: I understood you to say the other day that you would not tax notes and open accounts in a merchant's ledger?

Mr. MACKELCAN: Well, I don't see the same justice for the taxation of property of that kind that does not receive the benefit of municipal protection. Of course under our present law all that property is subject and liable to taxation, and so far as a portion of it is concerned I think the tax is reasonable. There are portions of it that seem to my mind might as well be wiped off the Statute book, because they are practically a dead letter—the assessor never gets at them—money in banks and the deposits, for instance, and property of that kind. It is only a fallacy; it is practically bringing the law into contempt, having a law on the Statute book making property liable to taxation that never can be ascertained and which is practically never assessed; and all these observations that have been addressed to you with regard to the absurdity of taxing of personal property and the impossibility of arriving at a just estimate of the value of personal property apply, and were I think intended by the persons who made them to apply, to the taxation of personal property of that character, invisible and intangible property that exist only in the books of a bank and deposit account, debts that were only evidenced by promissory notes, and possibly by simply mere word of mouth or by entries in ledgers. That is a kind of personal property that you cannot find out anything about unless you examine the books of every bank and of every individual and mercantile and business concern in the municipality, and it seems to me useless to have on the Statute book the power to tax that which you cannot ever reach and cannot get at. But to tax that which is visible and tangible, and which is receiving the benefit of municipal expenditure, is I think perfectly reasonable and within the province of the municipality; because we have to bear in mind that we must not confiscate the property of the land owner who has put up buildings on his property, or the man who is holding property and paying taxes on it and trying to find a purchaser for it if he can, ready to sell it if anybody would come and buy it; but if that man, receiving little or no benefit, or receiving nothing like the benefit that the owner of the personal property does from these very large municipal expenditures, has to pay all the taxes for land, then you are doing him a very great injustice. I do not know that I could apply any better rule than that which I opened with on the first day of this Commission, that is to say, if possible to look at this question from this standpoint: If the moneys required for all these purposes had to be raised by voluntary contribution, who would be the peopie interested in making that contribution if every man contributed according to the real benefit that he was to receive from the expenditure. I say the owners of those large stocks of goods that are protected by municipal expenditure would——

The CHAIRMAN: You are repeating yourself very much.

Mr. MACKELCAN: I am, but so much has been said since I made that proposition.

The CHAIRMAN: We have not forgotten it.

Mr. MACKELCAN: I endeavoured to say that it practically all comes back to that apparently by the admission on all hands. I was going to allude to what Mr. Allen said as to the advance as far as Glasgow is concerned on this Province by taxing on the annual value instead of the capital value; but I may say that was the law in Ontario up to 1866. When the Assessment Act was consolidated in 1866 under the Honourable Archibald MacKellar, real and personal property was for the first time in towns and cities assessed at its capital value and not upon its annual value. Prior to that there had been a distinction between the taxation of land in towns and cities and the taxation of land in the country. In towns and cities the real property should be estimated at its full value, and the yearly value of property in towns and cities should be the real rack rent.

The CHAIRMAN: How is that material?

Mr. MACKELCAN: I am just alluding to the proposition that taxes should be on the land value. I was pointing out that that used to be the law of this Province, but that law was changed; we abandoned that system. It has not been as if we had never tried it, and now the taxation is upon the capital and all those classes of property.

The CHAIRMAN: I do not see that it has any bearing on the question we have before us—the most equitable method of taxation for merchants' stocks.

Mr. MACKELCAN: I suppose it bears upon it the same as it would then.

Mr. MacPherson: May I be permitted to hand in this petition from some of the Single Tax friends from Hamilton?

Mr. MacKelcan: There is only one branch of this subject on which, apparently, there is no dispute and that is that portion of our amendment which desires that mercantile corporations should pay taxes on the same footing as mercantile partnerships. There should be no distinction between the one and the other.

Mr. Frank Hutton: I have listened very attentively to all the speeches that have been made, and am pleased to find that most of the gentlemen who spoke agree with the contention that I made, that the Act was bad. Even Mr. Fleming, although he said that the Act worked out fairly well in Toronto as they worked it, says that it is not good, and the Assessment Department of Toronto also admit that there is a very large amount of personal property which escapes taxation which would be taxed if the law was fully administered. Mr. MacKay, one of the members of the Commission, has asked me if I had any idea what amount of tax was evaded, and I have looked the matter up a little and thought it over as far as Hamilton is concerned, and I can say that the personalty evaded in Hamilton would equal three times the amount collected; that is instead of having three millions we would have nine million. I am still of the opinion—

Mr. Wilkie: The personalty tax evaded is three times?

Mr. Hutton: No, the amount we would have would be nine million.

Mr. Chairman: Two-thirds of the whole tax is evaded?

Mr. Hutton: Yes. One gentleman who spoke here, Mr. Caldecott, I think it was, said that three per cent. of the rentals would return an amount equal to the present personalty tax. Well, that, you can see by the consensus of all the gentlemen who have since spoken, is erroneous—that it will take at least from seven to ten per cent, to provide the same amount, in fact I hardly think that that would do it, and it certainly would not do it if the proposition made by Mr. MacLaren was introduced of exempting the smaller people. If the proposition introduced by the Municipal Association is not adopted I think that the next best thing—I am not sure that it would not be the best thing—would be to adopt the tax on rentals, and in addition to that tax on rentals to tax the income revenue from the business.

Mr. Wilkie: That is the Board of Trade proposition?

Mr. Hutton: I do not understand that the Board of Trade went that far.

Mr. Wilkie: Mr. Blain did.

Mr. Fullerton: Mr. Blain and Mr. Paul Campbell went that far.

Mr. Hutton: In talking the matter over with Mr. Fullerton, Mr. Grant and Mr. Forman and the other officers of the Assessment Department, the consensus of opinion appears to be now that that would be the easiest collectable and the easiest got at, except that there might be some little trouble in arriving at the amount of income; but there is now that trouble in arriving at income, and it would only be the same interview with the same gentlemen to ascertain the whole amount of the income instead of ascertaining, as we now have to do, only a part of that; and I do not understand that it is the proposition of anybody to do away with the income tax, because if that was done it certainly would place the burden very materially on the real estate, which I think, with some other gentlemen who have spoken, is already now burdened for all it can bear. There is no doubt that if we adopt the rental tax alone that it will shift the burden, but I fancy that if we adopt the rental with the income the burden will be very, very little shifted; certainly that it will be in some particulars on people who do not now pay any tax, but who should. Certainly they will have to pay something; it is only right they should.

The Chairman: You would agree with Mr. Blain, then?

Mr. Hutton: Very largely, yes, sir. There is no doubt now that the law is not enforced. All the officials here are forced to admit that, in regard to money in banks, not because we want to evade it so much as because we cannot help ourselves, because we cannot find it out; people don't tell you, and therefore there is no means of arriving at it. But Mr. Fleming himself says that so far as Toronto is concerned they do not propose to, and they do not, aim at getting the whole amount that they could under the law. Just take Mr. Brock's case, for instance. He is assessed for $125,000. The statement he put in on the 2nd November to the Ontario Government shows that his paid up capital is $600,000. There is the difference. If he was taxed for the whole amount of capital he has in his business it would be $600,000. The Assessment Depart-

ment know this. I have cases in Hamilton where I know it, as great discrepancies as that, but they simply tell me, "If you assess us for this we will go to Toronto, because they won't tax us there." So how are you going to get at it? Therefore, I would agree largely with Mr. Blain, that if you would adopt rental tax, plus the tax on income, you would get as much revenue, there would be no heart-burnings, and the Act would be certainly more workable than it is at present.

Mr. KEMP: Mr. Brock says he would go to Montreal?

Mr. HUTTON: Yes, he has gone off to Montreal now.

Mr. KEMP: I would like, with your permission, to submit the points I raised in the debate to other members of the Board, and if they think well to place the matter before the Commissioners, we will have the Secretary put in a written decision in regard to it. That will save time and I think answer all parties. I would like to confer with the other members of the Board of Trade, and then we will be very glad to know and discuss them.

Mr. CAVELL: Do I understand that the Commission are not going to sit outside of Toronto?

The CHAIRMAN: That is so.

Mr. CAVELL: The reason I ask is that there are several retail merchants from outside towns who have intimated their desire to say something in regard to the grievances from which they are suffering. Members of the Association have informed the Secretary that they would like to be heard largely on the question of departmental stores. We have not been able to notify them until the day before yesterday when this will be heard for certain.

The CHAIRMAN: Don't you think that everything bearing on that question has been placed before us?

Mr. CAVELL: Probably so; I don't know. I don't know whether the members outside have anything different from those in the city of Toronto.

The CHAIRMAN: We have been told the difficulties of outside traders.

Mr. CAVELL: If the Commission do not wish to hear the views——

The CHAIRMAN: The only thing is that we do not wish that the business of the Commission should be spun out indefinitely.

Mr. CAVELL: I would only ask three or four from outside places.

The CHAIRMAN: It is only for the purpose of saying that they have lost trade by means of these departmental stores?

Mr. CAVELL: Yes.

The CHAIRMAN: That has been very fully stated to us. I do not think it can be denied. Mr. MacLaren did not deny it, that those stores took trade that was formerly done by country traders, not merely in Ontario but out of Ontario; and if that should be the sole purpose of bringing these people before us it would seem to be mere waste of time wouldn't it?

Mr. CAVELL: If that is their only object, unless they had something to advance.

The CHAIRMAN: If there is anything really now going to the bottom of this thing, the Commission would be very ready to find additional time to hear anybody.

Mr. J. D. ALLAN: It has seemed to me that throughout this whole discussion there has been no attempt really to show what has been done elsewhere; and in order to remedy that to a certain extent I put in the other day a statement of the custom that prevails in Great Britain and Glasgow particularly. I understood you to remark that that did not bear on the subject. Perhaps I am mistaken in what you said, but I think it bears upon the subject in this way: they have no personalty tax there; the basis of taxation is services rendered by the municipality. On the opinion of the personalty tax I hold in my hand the report of the State Tax Commissioners of the State of New York. They report that the opinion of the chief fiscal officer of that State is becoming more decided with increased discussion and experience that the attempt to reach personalty in a general property tax should be abandoned; and in support of that opinion give facts and figures which are already before the Legislature, and therefore need not be repeated here.

The CHAIRMAN: What is the date of that?

Mr. ALLAN: 1898.

The CHAIRMAN: We have literature later than that from the State of New York.

Mr. ALAN: So have I. I also have the report of the Connecticut State Board of Assessors, of West Virginia, of Ohio, of California, every one of which is just in the same way Conditions there do not differ materially from what they do in the Province of Ontario; and if they have found this personalty tax to be so inequitable—in some cases taxing a man twice and in other cases allowing men to escape taxation—I think from the evidence we have heard here we can conclude that the result has been very similar in the Province of Ontario. Regarding what has been said about services rendered by the municipality, the only difference of opinion seems to be as to what is the service rendered by the municipality. Mr. MacKelcan takes exception to the case submitted by yourself in which a lawyer might go to Hamilton and settle. He says it is his own brains, etc., that enable him to get ahead there. I want to ask the question if the finest warehouse that can be erected, filled with goods, will produce any income except there be brains at the back of it to direct it?—and that is what we as wholesale merchants object to have taxed. The brains of a lawyer are no doubt valuable; the brains of a merchant are equally valuable; and if in the one case there is to be no tax upon them, we submit it is unfair in the other that there should be.

Mr. MACKELCAN: How could he make money if there were no goods?

Mr. HUTTON: In the working out of the rentals I think the objection raised to the Montreal system by Mr. MacLaren, that they can evade the true rental, should be provided against, and it would be wise to provide that there should be a percentage on the assessment like our own Act.

Mr. JUSTICE MACMAHON: I cannot understand how any landlord would execute a lease pretending to accept a less rental than had been agreed upon, when if he sued his tenant he would be obliged, notwithstanding what he might swear to, to accept those figures.

Mr. WILKIE: There might be a cash bonus.

Mr. JUSTICE MACMAHON: There might be that.

Mr. HUTTON: In Hamilton even in the ordinary households I ask the rental because it has a bearing on the value, and I have often had them say, "Well, it is $8 but the landlord told us only to say $7."

The CHAIRMAN: Subject to the remark about hearing further parties in anything really usful to be brought before us, I think this question is now closed.

Commission adjourned at 1 30 p.m. till 10 30 a.m. on Monday next.

SIXTH DAY, MONDAY, NOVEMBER 19, 1900.

Present:—The same Commissioners.

The CHAIRMAN: The subject for discussion is the most equitable mode of assessing companies operating public franchises, etc., and we shall be glad to hear anyone who is present for the purpose of giving us light upon the assessment of such corporations and companies as have been mentioned. We arranged to hear these same companies with reference to the taxation of land under the first subject, and perhaps it would be convenient now to do that unless some other arrangement would be thought better. What do you say, Mr. Kingsmill? Was it to-day you proposed to be heard as to taxation of land?

NICOL KINGSMILL, Q.C.: Mr. Robinson, Mr. Lynch Staunton and Mr. Chrysler are here to discuss the whole question of corporations. What I asked, Your Lordship will remember, was that the question as to how real property of corporations, railways and so on should be assessed, should be left until the discussion of the whole matter, they were so bound up together.

The CHAIRMAN: It was not to day that you meant to take that up?

Mr. KINGSMILL: No, but under the head of No. 3.

The CHAIRMAN: It is No. 3 we are on to-day.

Mr. KINGSMILL: The question of the taxation of the real property of corporations such as railway companies, I should think, would be incidental to that.

The CHAIRMAN: Are you prepared to go on now, then?

Mr. KINGSMILL: I think it would be only fair that the railway companies and other corporations should know first of all what the views of the municipal corporations are. We are perfectly content with the taxation as it is at present.

The CHAIRMAN: You wish to hear what objections there are to the present system. Then I think it would be perhaps most convenient to hear from the Municipal Association, represented by Mr. MacKelcan, and that he should open the subject. I think we are prepared to hear the presentation of your views, Mr. MacKelcan, as representing an important association.

Mr. FRANK MACKELCAN, Q.C.: Mr. Chairman:—As the law stands at present, under the recent decision of the Court of Appeal, property belonging to street railways and electric light companies and telegraph companies is assessed at a mere song. It cannot be contended for a moment that the assessment of it is based upon anything like the same principle as the assessment of other property; and we have set out with the general proposition that all real and personal property should be assessed at its fair value, and we desire under that principle to assess the property of these companies in such a way that they will be assessed in equal proportion to other owners of property in that municipality. We simply ask that they should bear their fair share of the taxation. At present they bear no share practically; the trivial sum for which they are assessed, in comparison with the value of their property, is no assessment at all in fact. It is a mere farce to assess property of that description under the law as it stands now. How to arrive at a fair value of property of that kind is a subject that no doubt will have to be threshed out and upon which many divergent views no doubt will be expressed as to whether, as in some States of the American Union, the franchises and properties of the various railway, telegraph and telephone corporations should be assessed by a State Board and the respective amounts upon which each municipality should be entitled to impose its annual rate of taxation should be assigned by that Board to the different localities through which the lines are run, or whether it should be left to the local assessors of each municipality to put a valuation upon so much of that property as is within that municipality, is a question that no doubt will be very fully discussed. The present system is undoubtedly altogether unsatisfactory to the municipalities. It is eminently satisfactory, I have no doubt, to the companies, because they get off with paying little or nothing The mode proposed on the opening day of this Commission of assessing the property of these companies all in bulk within the municipality, instead of splitting it up into ward assessments and then treating the property in each ward as if it were severed from all connection with all the rest of the system, it was thought might get over the difficulty arising from the decision of the Court in the case of the Bell Telephone Company and the city of Hamilton. Whether it would do so or not is not altogether safe to assert positively, because further arguments might be advanced that we must take the municipality as if separated from the adjoining municipality, and as if this line was simply a local line confined to the municipality itself and did not exist beyond the limits of that municipality, in which case, if it was a telegraph line, it would be practically worthless, so that those questions might still be left unsettled and undetermined even if a presentment was made in the way suggested for the assessment of such companies. In the State of New Jersey and in the State of New York I believe not only is the actual corporeal property of the railway company or telegraph company assessed, but an assessment is also put upon the value of its franchise; so that the taxation is perhaps heavier upon those companies than it is upon private owners of property inasmuch as there must be a value in the franchise over and above the value simply of the property that is being operated by the company. It seems to me that a fair distribution of the value of property of a railway company over the whole Province settled by a provincial board would perhaps be the most satisfactory method of arriving at a valuation for the purposes of local taxation of property of this description. I will read two or three paragraphs from Cooley on taxation which give, in a very epitomized form, a statement of the modes of taxation of railroad property adopted in the different States in the Union. (Cooley, second edition, page 383) "The difficulties of assessing lines of rail-"road which extend through many municipalities in the same way that property in "general is assessed are so great and so obvious that in many states it is not attempted, "and a franchise tax is imposed as a substitute for all other taxation. But in other states

"a railroad is listed, assessed and valued as an entirety, and the value then apportioned "for taxation between the several municipalities by some standard prescribed by law, which "generally is the length of line within the municipalities respectively. There is no "constitutional objection to that method of taxing this species of property, and it is perhaps "more just than any other. In some states the assessing board apportions the aggregate value "between the municipalities according to the estimated value of that portion of the road "with its improvements lying within the limits of each, and in still others the road-bed, "right of way and superstructure are assessed as a whole, while the buildings and local "improvements are left to be assessed locally like the property of natural persons. In "thus assessing the road as a whole, the law in some states takes into account the fran-"chise as property, and requires it to be valued with the rest; in others it does not. The "rolling stock and other personalty of the company should be assessed at the place of its "home office unless some other provision is made by law; but under some statutes the "rolling stock is considered real estate, and is estimated with the road itself. Where a "road is thus to be assessed as a whole, bridges, tunnels, easements in and over streets, "and other things and rights of a like nature, are to be taken into account, and are not "subjects of separate assessment; while property not held or used for railroad purposes, "but of which the corporation may have become owner, should be separately listed and "taxed, unless the statute plainly makes a different provision. Where one railroad com-"pany leases the lines of other companies as extensions of its own under authority given "by its charter, such leased lines should be taken into account, valued, and the value "apportioned with the line of the lessee company. In other states still, the local assessors "are left to list and value such railroad property as is within their jurisdiction, including "such portion of the road-bed and superstructure as lies within their municipality, in the "same manner as they would any other property. In valuing railroad property it must "be estimated by the same standards as other property is valued by. A railroad track "cannot be assessed as non-resident real estate, that term being only applied to property "not occupied and used." On this last point we have provision of a similar character in "section 5 of the Assessment Act, which says, "The real estate of a railway company shall "be considered as lands of a resident, although the company has not an office in the "municipality; except in these cases where the company ceases to exercise its corporate "powers, through insolvency, or other cause." Then we have section 31 of the Assessment Act with regard to railroad property, which is not very clear in its terms, but which says, "Every railway company shall annually transmit, on or before the 1st day of February, to the clerk of every municipality in which any part of the roadway or other real property of the company is situated, a statement shewing: (1) The quantity of land occupied by the roadway, and the actual value thereof, according to the average value of land in the locality, as rated on the assessment roll of the previous year; (2) the real property, (other than the roadway) in actual use and occupation by the company, and its value and (3) the vacant land not in actual use by the company, and the value thereof, as if held for farming or gardening purposes; and the clerk of the municipality shall communicate such statement to the assessor, who shall deliver at, or transmit by post to, any station or office of the company a notice addressed to the company of the total amount at which he has assessed the real property of the company in his municipality or ward, shewing the amount for each description of property mentioned in the above statement of the company; and such statement and notice respectively shall be held to be the statement and notice required by sections 47 and 51 of this Act." Then we turn to sections 47 and 51 and read, "It shall be the duty of every person assessable for real or personal property in any local municipality, to give all necessary information to the assessors, and, if required, by the assessor, (or by one of the assessors, if there are more than one), to deliver to him a statement in writing, signed by such person, (or by his agent, if the person himself is absent) containing all the particulars respecting the real or personal property assessable against such person which are required in the assessment roll; and if any reasonable doubt is entertained by the assessor of the correctness of any information given by the party applied to, the assessor shall require from him such written statement." Then section 51 says, "Subject to the provisions of section 52, every assessor, before the completion of his roll, shall leave for every person named thereon, resident or domiciled, or having a place of business within the municipality, and shall transmit by post to every non-resident who has required his name to be entered thereon, and has furnished his address

to the clerk, a notice according to the form given in schedule D to this Act, of the sum at which his real and personal property has been assessed, and shall enter on the roll opposite the name of the person, the time of delivering or transmitting such notice, which entry shall be *prima facie* evidence of such delivery or transmission." Now a construction has been put on this section 31 which does not seem to be warranted at all by the language of the section but seems to have been accepted as the legitimate sequence of the wording of that section. Sub section 1, as it will be noticed, requires the railway to give a "statement of the quantity of land occupied by the roadway and the actual value thereof according to the average value of land in the locality as rated on the assessment roll of the previous year;" but then it says, "And the clerk of the municipality shall communicate such statement to the assessor, who shall deliver at, or transmit by post to, any station or office of the company a notice addressed to the company of the total amount at which he has assessed the real property of the company in his municipality or ward." Now, does it not say the assessor is to assess the property at the value given by the company or according to the average value of land in the locality; that is only information that the railway company is to furnish the clerk of the municipality, but the assessor, it seems to me, should follow the law, which is to assess the property as its true value; and I do not see anything that would justify the exclusion of the rails and ties and other portions of the road-bed which form part of the railroad from the valuation of the assessor. As I say, that construction was put many years ago upon the section, that the superstructure was not assessable but only the land occupied by the road; but I do not think the statute ever intended that construction, or justifies that construction. It seems to me that the law ought to be made clear and ought to be demonstrated consistently with the section which says, "All property, real and personal, shall be liable to assessment." Even the present law, if demonstrated in accordance with its intention, would make the property of railways liable to assessment the same as other property. But in connection with this subject it seems to me that if the rolling stock of the company is to be treated as personal property there is no reason why it should not be liable to assessment in the same way as other personal property. Although I think the more reasonable construction would be to consider the rolling stock in connec ion with the value of the entire property, and as part of the property of the company liable to taxation, and the value of it distributed over the different municipalities through which the railway runs, because that rolling stock is not permanently located in any one municipality but passes from one to the other all the time. There would always be in a municipality quite a number of railway cars, but they would probably be in motion; they are only stationary when they are out of use or being loaded or unloaded; and in that way it seems to me by adding the value of the rolling stock to the value of the whole enterprise we could get at the entire property of the company within the Province liable to taxation.

The CHAIRMAN: How would you distribute the taxation arising from rolling stock among the municipalities.

Mr. MACKELCAN: According to mileage.

The CHAIRMAN; Although the great proportion of the rolling stock is lying in one place usually, and receives the protection of that locality, applying your fundamental principle to it.

Mr. MACKELCAN: Yes, if it could be done. The only trouble is that sometimes there would be a great collection of cars no doubt at certain seasons of the year at certain points; for instance there would be a very large number of grain cars accumulated, and then when the season for moving grain is at hand they are distributed over the whole system; although no doubt there are central places which are made head-quarters.

The CHAIRMAN: And in other places the rolling stock never does lie, but moves.

Mr. MACKELCAN: Possibly then that property should be assessed as personal property separately from the road-bed. The difficulty in doing that simply arises from the fact that in the greater portion of these municipalities this property is in motion nearly all the time. I think the other method, if we could get at a fair average value of the personal property in the municipality during the year, would be the fairer mode of assessment to the municipality. I think, however, that if there were any general valuation of the road-bed, in the way that has been suggested, the local buildings in each municipality, according to the requirements of the company in each place, should be subject to local assessment, and not be estimated as part of the road-bed. Of course if a general assess-

ment were made by provincial assessors they would have to consider the value of land in the different municipalities in assigning a proportionate value to that municipality for taxation ; for instance the land in Toronto is worth a great deal more per mile than land in a township municipality ; and if a general assessment were made of that kind the value of land in the various municipalities through which the road ran would have to be taken into account ; but that could easily be done. You could say the land in such a municipality averages so much an acre, and the land in another municipality averages a much larger amount ; but the cost of the road bed, if that is to be a subject of assessment, is probably very much the same throughout.

The CHAIRMAN : You mean the superstructure ?

Mr. MACKELCAN : Yes.

The CHAIRMAN : Take an expensive embankment for example.

Mr. MACKELCAN : That would be a question for this Board of Assessors to deal with if the New York State Law were adopted. I have the tax law of the State of New York here.

The CHAIRMAN : I think there is a later one than that.

Mr. MACKELCAN : No ; this is the amendment down to 1899, down to last year.

The CHAIRMAN : Including the Ford Act ?

Mr. MACKELCAN ; Yes, including the Act of last year, the Ford Act ; the tax law of the State of New York, chapter 24, and amendments to date, 1899. I might say in a general way that the Municipal Association asks for such amendments as in the wisdom of this Commission might be thought effectual to give municipalities power to impose a fair measure of taxation upon companies of this description. At present they practically go untaxed except so far as the buildings which they own in the municipality in which they are situated for the purpose of their business ; but so far as all other lands are concerned, which are very valuable pieces of real property, and all assessable as such, I think they are practically untaxed to-day ; and it is a subject of complaint by all ratepayers that most of these companies which are earning large dividends and exercising valuable franchises within the municipality practically escape taxation.

The CHAIRMAN : You have confined yourself entirely to railways.

Mr. MACKELCAN : The same principle would apply to telephone and telegraph lines, it seems to me, as to railways.

Mr. JUSTICE MACMAHON : Have you considered the question in relation to a corporation such as you have in Hamilton and such as there is here ? I understand the city derives from the franchise a certain yearly income.

Mr. MACKELCAN : Yes.

Mr. JUSTICE MACMAHON : Have you considered the question of taxation in relation to that, or cases of that character, or have you seen anything in books on the subject that refers to it ?

Mr. MACKELCAN : Of course we feel inclined to tax as lightly as the law will allow corporations that are already paying us a handsome yearly return for the privileges they have in the streets. That, however, is regarded simply as a rent of real estate. Probably if they had to purchase their right of way—

Mr. JUSTICE MACMAHON : Is that the case where they get a percentage from the earnings, that it is regarded as rent of real estate ? You see they cannot get a percentage from the earnings unless the railway is in full operation, and using its tracks, and cars, and motive power, and all that sort of thing.

Mr. MACKELCAN : We have made an estimate that the mileage, which I look upon as almost a rental, and the percentage together, would not more than pay a fair rental for the land actually occupied by the road. I think Mr Hutton has made a calculation—I have not made it myself—and he would be able to give you the figures from which he comes to that conclusion.

The CHAIRMAN : One argument is that the annual payment by these companies to the municipality is part of the original purchase money, the original price, the original consideration for which the franchise was granted to them by the municipality.

Mr. MACKELCAN : I am not asking for the privilege of taxing the franchises—that question has never been considered—but simply the property. In London they are in a different position to which we are in Hamilton ; they get no revenue at all from the Street Railway I understand. And I believe in Ottawa they are in the same position.

We are not desirous, as far as I can speak for Hamilton, to load the street railways that do pay heavily; but there are other street railways——

The CHAIRMAN: You have not considered the question of assessing the franchise?

Mr. MACKELCAN: No. But there is one of the street railways in Hamilton that pays no——

The CHAIRMAN: That is the leading principle of the New York Act.

Mr. MACKELCAN: That is the assessment of the franchise—yes.

The CHAIRMAN: Yes.

Mr. MACKELCAN: I may say some of the street railways in Hamilton pay no contribution to the city funds, but others do pay. They are not all upon the same footing in that way.

The CHAIRMAN: Then you have no light to give us on the franchise question?

Mr. MACKELCAN: The Association did not consider that question; but I think that probably before this discussion is over and when we go into the laws that have been passed in the United States for the last five years upon this subject it may be thought advisable to consider the value of properties of this kind as a whole, including the value of the franchise. But I wouldn't ask to tax the franchise separately. The question how far the value of the franchise is to be taken into consideration in estimating the value of the property should be a matter to be considered and perhaps left to the Board of Provincial Assessors, if a Board of that kind were appointed. But what we want now is some method by which we can get a fair share of municipal taxation from those companies which now practically contribute nothing to the local revenue, except the rental they pay in some cases for the use of the streets in the case of the street railway.

The CHAIRMAN: Is there any one to speak on the same side substantially as Mr. MacKelcan? If so, I think it would be convenient to hear that side out, for I understand that the companies who are represented here are content with the present law.

Mr. FULLERTON, Q. C.: I desire to say a few words about this matter. I would have been glad to have heard from some of the other side, but possibly the chance will be given for a reply.

The CHAIRMAN: You will have an opportunity to reply.

Mr. FULLERTON: Then I will be brief in opening, as the ground I wish to cover is much the same as that covered by Mr. MacKelcan. First let me speak on the last question which has been mentioned by one of the Board, and that is where companies pay to the corporations where they exist a certain sum annually. I do not see on what principle that can enter into the question of taxation at all; take for instance the only one perhaps in which Toronto is interested at the present time, the Toronto Railway—I mean of course the Street Railway—the word "Street" being left out in the agreement in their charter. When they acquired their interest in that Railway it belonged to and was the property of the City of Toronto; the sale to them was a matter of purchase and sale, of the right to run that railway and of the plant, rolling stock, rails, etc., which the city owned by purchase from the old company, and which they were transferring. There was no question of taxation considered in that bargain; the law was not attempted to be interfered with except in one particular, and that was it was part of the agreement that the taxes paid in reference to schools should go to public schools and not to separate schools otherwise than that no reference was made to taxation. But that one reference is sufficient in itself to shew that the intention of the parties was that the taxes should be paid according to law except so far as varied by that agreement in that particular. The result therefore was that the Toronto Railway acquired the only rights the city had and acquired rights that they should pay taxes on, and, although there were certain decisions at that time affecting the question they acquired it without any agreement or understanding they were not to pay taxes. In the assessment of the railway company the question was most strongly urged by Mr. Osler on behalf of the Railway Company before a board of three judges, and I can't do better I think on that question than read to you a portion of the judgment of Judge MacDougall, Judge of the County Court, on that portion of the question, which it seems to me, disposes of the contention that was made in that particular; I can hand in the judgement (a)—I have it here—in the appeal which was prepared to go to the Court of Appeal but I have not a recollection at the

(a) See No. 10 in Appendix A, and Re Toronto Ry. Co. Assessment, 25 Ont., App. 135.

moment that it was argued—No, I see it was quashed on other grounds; the merits were not argued.

The CHAIRMAN: What year was that?

Mr. FULLERTON: It is in 1897, the assessment of 1897. The judgment was delivered——

The CHAIRMAN: Tell us the substance of the decision, and put in the case; I have no doubt that will be satisfactory to the other side because they are familiar with it, no doubt.

Mr. FULLERTON: Yes, the part I am going to read will be found then beginning on page 19 and continued on page 20. The learned County Court Judge picks up the agreement and selects only a few of the very many passages in the agreement that bear out the contention I make that it was a purchase by the railway and a sale by the city and therefore not a matter which should affect taxation at all. Judge Dartnell took the opposite view, and he said, as it was made at a time when by the old decision in 35 and 37 Upper Canada Reports (*b*) a street railway was not taxable according to those decisions, that he thought it would not be fair now to tax, though he does not say in any place, if my recollection serves me correctly, that the parties had made their agreement in any way in reference to taxation.

The CHAIRMAN: Were there only two judges?

Mr. FULLERTON: Judge McDougall does not, as far as I recollect, deal with that question; but whether it is land or not land, and he holds it not assessable on the ground that it is not land. That is my recollection but I have not read it recently, and if I am in error I would be glad if Mr. Bicknell would now correct me. These were the opposite views set out there. Judge Dartnell on the same question, near the end of his judgment—his judgment immediately precedes Judge MacDougall's—it begins on page 11, and you will find on page 14 he uses the language, "the corporation is endeavouring to filch with one hand what they have given with the other," The language being strong enough, whether the reasons are sufficient or not. Those were the two judges that dealt with that question there. Now there is another point I wish to point out, and it is so well known in law that I probably need not give a reference, but if any is needed it will be found in Cooley in several places; and that is so far as the municipal corporation is concerned, their duty is to levy a tax, not to release any tax-payer or to charge any tax-payer; and in selling a street railway or any other franchise which becomes their property they have no power to so burden or to so discharge or to so release; their whole power is to sell what they have to dispose of, and it must come under the general law as to taxation. Therefore it would have been utterly impossible for us to have sold the railway, and bargained with the railway, and agreed with the railway, or with any of the other different franchises, that they should purchase what they purchased from us and that they should be freed from taxation

The CHAIRMAN: You say then the municipality couldn't sell to a manufacturing company with a proviso for exemption from taxation?

Mr. FULLERTON: Not unless there is special legislation as to exemption.

The CHAIRMAN: Nor exemption for a number of years?

Mr. FULLERTON: Only when it is provided for by special legislation.

The CHAIRMAN: We are considering what would be proper legislation to make.

Mr. FULLERTON: It might be very proper, I don't say whether it would or not, I haven't considered it on that point, that franchises or matters of this kind should be vested in the municipality, and the municipality should be allowed to make their own bargains which should include taxation. But at present that has not been the law and I have not given it consideration along that line. I can only point out to you what the law really is, and that so far as these companies are concerned at present in the dealings they have had with our corporation there is no reason why they should be in any way relieved from payment of taxation. That applies to the Street Railway who are paying us—

The CHAIRMAN: You will not forget that the object of the present session is to enquire what would be a proper amendment of the law so as to make it just.

(*b*) Toronto Street Ry. Co. v. Fleming, 35 U.C.R. 264, and 37 U.C.R. 116.

Mr. FULLERTON : No. At present perhaps I shall have discharged my duty by pointing out to you what the law is now, and why at present it is unjust, and where the injustice is ; and later on when we have heard the different questions that may arise I will endeavour to discuss that very point with you.

Mr. JUSTICE MACMAHON : Supposing we were to come to the conclusion that the gross earnings of railways were subject to taxation wouldn't we have to take into consideration the fact that the municipality was getting from the gross earnings of the railway company so much every year ?

Mr. FULLERTON : I would not think so, and for this reason, that the amount we are getting at the present time is part of a purchase and sale ; it is part of a bargain by which we sold and they obtained our property, made without reference to taxation, and without the intention that it should affect taxation. And therefore in dealing with the taxation of the company it would be unfair to say they are paying so much and therefore they should be taxed less.

Mr. JUSTICE MACMAHON : Hardly that, because you are getting $800 a mile per year from this railway and the extra amount that is paid is paid on gross earnings.

Mr. FULLERTON : Quite so. That $800 a mile is also a part of the purchase price, so that it is exactly—

The CHAIRMAN : Suppose that was all they got ; suppose that was all the consideration the city got for the sale of the property and the franchise that would make your view emphatic.

Mr. FULLERTON : Exactly. And the fact that we get part in $800 a mile and part in an annual sum to be paid out of the earnings does not make it any the less price they paid us, does not make it any the less the sum we said we would sell you at subject to its ordinary incidents whatever they may be ; or if these are not mentioned it follows as a matter of course that we sell you that and you take it. Having made a purchase and sale we could have said to them we will now in the start make a computation and see what sum capitalized now will be worth these two sums, and we will take that as the price. That does not alter the character of that from what it is now, whether they take it payable annually instead of payable in a single sum. No doubt we would get more treating it the way we did than to capitalize it in the first instance. But I submit that so far as the City of Toronto is concerned in its dealings with the railway—we did for a short time receive some compensation from the Bell Telephone Company—it was entirely as a matter of purchase of a right we had, of property we had, and that should be open to taxation. Then, for a moment, and I will be very brief, I want to call the attention of the Board to how the questions were put in their present condition and I will give you the reference to the causes without attempting to read from them, and briefly state the results. The earliest case is the case which is to be found in 35 and 37 Upper Canada Reports (Tor. St. Ry. Co. v. Fleming) in which it was held that the Toronto Railway was not assessable.(*a*) The question next came up before the various courts and the final judgment, which is perhaps all I need trouble you with here is in the Consumer's Gas Company v. the City of Toronto in 27 Supreme Court Reports, page 453. That was in 1897. That judgment, as is stated in the Toronto Railway Company assessment in 25 Appeal Reports 135. overules the old judgment of Fleming v. Toronto in 37 Upper Canada Reports and holds that the rails, the poles, the wires, the pipes of the Gas Company and so on—taking the effect of the two judgments together—are real estate, and that the companies owning them are assessable upon such as real estate. But the first judgment, 27 Supreme Court Reports, also holds that they are assessable in the wards of the different cities following what was then section 15 and is now section 18 of the Act. The next result flowing from that is to found in the case of the Bell Telephone Company v. Hamilton, 25 Appeal Reports page 351 ; and in re London Street Railway Company, 27 Appeal Reports page 83. Without at all attempting to follow the reasoning in the two judgments the results appears to be this, that while they are assessable on realty in order to ascertain their value under section 28 they must be treated for valuation as if severed from the land and sold as personalty, or sold as personalty if attached to the land taking into consideration that the purchaser would have to sever and deal with them as personalty. Perhaps I cannot better give you the result that this has had than by

(*a*) See 35 U.C.R. 264 ; 37 U.C.R. 116.

pointing out you in the assessment of the Toronto Railway Company what actually did take place. I have mentioned incidentally this fact before, but I will be brief about it. We had assessed Ward One at $6300 a mile by consent, as the value of the rails, poles and wires in position in that ward. We did not attempt to assess the franchise; that had been held by Judge MacDougall to be something not assessable, and the franchise was not attempted to be assessed. We took the actual value of the rails, poles and wires of the Company, placed in position, as real estate the property of the Company, and in opening the appeal which was after the Bell Telephone Company's judgment this is the significant language used by Mr. Laidlaw, the leading counsel for the Railway, 'On this appeal the principal question, and I think the single question, will be the proper basis of the assessment of these rails, poles and wires upon the proposition that they are liable to be assessed as real estate. I do not dispute that the assessment which is stated to be at the rate of $6300 per mile would be a fair and reasonable assessment if the assessment should be made as a part of Street Railway's system as a going concern. The issue between the city and the Railway Company upon this appeal will be upon the basis of a judgment recently delivered in an appeal from the Bell Telephone Company Assessment and the City of Hamilton." Then he sets out the result of those judgments that in the Bell Telephone case what had been assessed at $25,000 had been reduced by the Court of Appeal to $3,000; and the principal of reduction is thoroughly stated. Now, just one word upon the evidence of the principal witness for the Railway to show the application of the principle—I refer to the evidence of Mr. Ewen McKenzie the Superintendent of the road and brother of the President of the road; a man of much intelligence. He points out so clearly in these few passages the application of principle that was made in giving evidence that I think no thing could be illustrated better. In cross-examination he says at page 44: "Q Do you know of a city where the girder rail has been introduced . . . and they had gone back to the Trail? A. No." The previous proposition laid down by him being at page 32 where he says: "Q. I make the total scrap value in Ward Two on rails, wires overhead and poles $11,140 84. Being how much per mile? A. $829 26. Q. Rails at how much per ton? A. $3 00—

The CHAIRMAN: Do not go into so much detail. I hope you and others will bear in mind that this is a large subject and we have only a limited time for it.

Mr. FULLERTON: I will go very little into detail, and only with this one man for a few words; and it will illustrate the whole thing, for one illustration, as your Lordship says, is as good as a hundred. The evidence sets out that these rails which he puts in at three dollars cost thirty-two dollars a ton to get; the evidence further sets out that they themselves would have abundance of use for them in the other wards of the city if they wanted to use them; but it also sets out that girder rails are not on the market for sale for the reason that girder rails are used in all cities and towns that have paved streets, and that they have not been long enough used to have the life time taken out of them; that they have a value in them as rails, but that no person has taken out any, and therefore no second-hand rails are on the market; and because there are none on the market, he says, "Ours must be reduced to the price of scrap iron." The result was that, so far as the railway was concerned, not only the rails but everything was reduced to scrap iron, and Mr. McKenzie's $830 was practically taken, as the result was $900 a mile. I will not go further into it than that.

The CHAIRMAN: I thought you told me the assessment was $6,300 per mile?

Mr. FULLERTON: Yes; that was in one ward, and that we agreed upon.

The CHAIRMAN: Was that reduced?

Mr. FULLERTON: No, that was not reduced because the time for appeal had gone by; but in Wards Two, Three, Four, Five and Six the time had not gone by, and they appealed in those other wards.

Mr. JUSTICE MACMAHON: They appealed after the decision of the Bell Telephone Company case?

Mr FULLERTON: Yes; we have in Ward One $6,300 a mile, and in Wards Two, Three, Four, Five and Six it is reduced under the judgment to one-third of that, $900 per mile.

The CHAIRMAN: In the assessment it was $6,300 a mile?

Mr. FULLERTON: Yes. And that $6,300 was the same assessment that had been imposed after the Bell Telephone Company judgment for the year previous, and I am not

certain but I think there was no appeal against it then—I think that is correct; at any rate, in Ward One in the next year there was no appeal against it, and the appeal was only as to the balance. The result, therefore, of that judgment, as it interprets the law or rather interprets the application of Section 18, is that they shall be assessed in the ward in which they are, reduced in that way. The result is to show, and I think to very clearly show, that Section 18, in being worked out, arrived at a result that never was intended by the framers of the Act. We need not confine it to a railway; it would be equally applicable to a brick house, if a brick house should be built, as it would be easily built, in two wards—because in some places the ward lines do not follow streets; I think that is so between Wards Three and Four and in other places—and if the line ran through the centre of that brick house one part of the house would be assessed in one ward and another part would be assessed in another; and on the same application of the law, that house could only be assessed as bricks and mortar though used as a house, though in every other respect a house, and though the man enjoyed it just as much as any other man, as far as a house was concerned, and it could be enjoyed by its use, it would still have to be treated in the same way. I submit that is the result. That that is unfair and unreasonable in result I think must be evident, and if it is so then some change should be made in the assessment by wards, so that the property of these companies—as that brick house ought to be—will be assessed at what they are worth as buildings, as land in position, and prepared to be operated or used for what they are intended or designed for. Now that is, so far as the city of Toronto is concerned, what we are advocating. The question of franchise is a very large and wide question. If these companies, however, pay to us or pay to whoever grants them their franchise what is reasonable—in some cases the Bell Telephone Company gets its right to lay down its poles by a statute, and I see by a recent judgment of your Lordship that that is said to be controlled by the State, that they must get leave to lay down one line of poles; and there has been a more recent judgment in the Supreme Court—I am sorry to say I have not the substance of it, and I refer your Lordship to that, although I am not in a position to say whether it modifies it in that principle or not, but I probably will be before the discussion is over. What I do say is that, at any rate, that important change should be made, and another change should be made. All these companies receive protection, and some of them require a great deal of it; all receive all the benefits that can be obtained in a city from that protection and that care; all use the streets and all do things they ought to pay for. Then, I say in the first place, tax their real estate at least at the same rate or the same value at which you tax the estates of other parties, private individuals, or other companies or corporations. Then I want to point out another feature which has become of some importance, and that is, Mr. MacKelcan has already dealt with Section 31, and this Board will find the interpretation which has been put upon Section 31 in the case of the Great Western Railway Company v. Rouse, in 15 Upper Canada Reports at page 168, where it was held that the interpretation of Section 31, formerly Section 29, was that only the land and not the superstructure of the railway should be included; and the result was to relieve the rails and superstructure of the road entirely from taxation. And that has remained so. Without quarrelling with the very learned Judge who decided that case (the late Chief Justice Robinson), or saying that the interpretation he put upon the statute was not a reasonable one, from a legal point of view, I have always thought it did not carry out the intention of the Legislature, and that the language used, as would be interpreted by an ordinary assessment commissioner or an ordinary intelligent layman, would not have received the construction he put upon it; and the result has been to relieve from taxation property that requires protection just as much as any private property, and in many cases of strikes and railway disorders and troubles a great deal more, and they should reasonably pay their taxes the same as other people. The next section which I shall call your attention to is the one that deals with certain companies investing the whole or the greater portion of their stock in land. The section I refer to is Section 39, which says, "The personal property of a bank or of a company which invests the whole or the principal part of its means, gas works, waterworks, plank or gravel roads, railway and tram roads, harbours or other works requiring the investment of the whole or principal part of its means in real estate, shall as hitherto be exempt from assessment." The result of that section has been that in certain cases the telegraph

companies, and certain of the other companies, have put in declarations before the assessment commissioner, saying, "Oh, we invest the greater part of our money in land and therefore you cannot tax our personalty." The street railway takes the same position. Then they reduce the land to scrap, and tax it as personalty, and by the two schemes practically escape taxation; that is the result, that is how it works out. They say our money is all, or practically all, invested in land; it is true we have four or five hundred cars worth $2,000 or $3,000 or $3,500 or upwards—perhaps $3,000 would be a fair estimate; we have a great deal of other property, not land, but the greater portion of our investment is land, and therefore you cannot assess all these; you can only assess our land And then they reduce the land to scrap. I confess I cannot see any good reason for the existence of sub section 2 of Section 39. Mr. MacKelcan the other day, in addressing you on land values, pointed out reasons why a bank might be excepted, that is, that they are dealing with the property or moneys of outside parties, and these moneys are returned and taxed; so far as that reason was applicable, the bank should not be taxed for that money; but otherwise than that, why shouldn't the rule that is laid down at the beginning of the Assessment Act, that "All property shall bear its reasonable share of taxation," be applied?

The CHAIRMAN: Are you speaking of deposits?

Mr. FULLERTON: I say, so far as deposits, the property of other persons should be taxed as deposits; it would be unfair to tax the bank again for holding those; but all other properties of the bank——

Mr. WILKIE: What other properties would there be?

Mr. FULLERTON: That you would know better than I would.

Mr. WILKIE: Our land is taxed.

Mr. FULLERTON: They invest moneys in property, like debentures. I have not looked up the Bank Act for the purpose of ascertaining. The principal of equal taxation, I think, should apply; if there is nothing to tax it would follow there would be no taxation.

Mr. STEPHEN GRANT: In reference to the assessment of railway companies, known as "steam railway companies," we have several in the city of London, and we have no trouble with any of them; we assess their real property just the same as any other real property, and their buildings the same as any other buildings, at their real value; and there is no trouble between ourselves and the railways. In reference to the rolling stock, of course if your honorable body should decide on having that assessed, I think the fair way would be to get at it—there is a roundhouse in every city, where certain trains are made up in the morning and taken apart at night, and I suppose that portion of the rolling stock should be assessed in that municipality. In reference to telephone, telegraph and street railway companies, I cannot say that they are assessed at their fair value; in the present year in our city they are assessed at what has been decided on as scrap valuation, and of course we did not enter into any more litigation, but took that for the present assessment. The telegraph and telephone companies are small matters compared with the street railway, and they will right themselves no doubt. We consider in the city of London we have a special grievance; we have a scrap valuation there like other cities, and in the arguments it has been agreed on that the assessment was fair at $7,500 per mile, although we had to take a scrap valuation. We have not any mileage or rents in London for the mileage; we don't participate in the profits of the road; we have no percentage whatever; it is true that there was an agreement made that we were to get seven tickets for a quarter instead of six, as the other cities get, but that is all the advantage we have that I know of in the city of London; we assess them at a fair valuation for twenty miles, and I suppose something for the right of way in the city. They have the right of way in the whole city, and I think that is a very great advantage. We would not then in the city of London have anything like the percentage or mileage that is allowed in other cities, although I am not speaking against other cities. I think everything should be taxed at its fair value, and I trust you will consider the position the city of London is in, and after getting a fair valuation of the property they only received some eight or ten thousand dollars altogether, while the mileage and percentage they would be entitled to would far exceed that had any such advantages as the other cities have.

The CHAIRMAN: They assess by wards in London, I suppose?

Mr. GRANT: Yes.

Mr. HUTTON, Assessor of the City of Hamilton: There is just one observation that I wish to make in reference to assessment of franchises, or franchise companies, as they are commonly known, and the assessment of the lines of railways. Mr. MacKelcan has pointed out the effect of the statute whereby the railway company is to make a return to the city clerk, and from him to the assessment commissioner, of the separate classes of lands used and owned by the railway company, and the assessor is then to set down his valuation and forward it to the company. The inference has always been that the valuation was put on on the basis of lands in the adjoining locality; that had been the effect and was the practice in Hamilton till two years ago, when the very astute solicitor of the Toronto, Hamilton and Buffalo Railway Company did not think that was the law, and he appealed the matter to the County Court and had an assessment of thirty or forty thousand dollars reduced down to about two thousand dollars, notwithstanding that the lands had been valued, as it was thought, by the assessor, as per the statute. They had expended some two or three hundred thousand dollars in the purchase of right of way through the city, and it was necessary for their purposes that they should dig this right of way down thirty or forty feet, and they did so, and of course destroyed the value as ordinary land, and were enabled to convince the Judge that the statute did not apply to that, and that it should only be assessed as land, at what it was worth. If it applies in that way it ought to apply in the other way, and the land that they took in the rest of the city should be assessed at its value to them—but as the adjoining lands at its value to them. We did not think it advisable to go any further in that matter, and we left the decision where it was; but that has been the effect, that instead of taxing the lands assessed, as we thought, by the statute at the same rate as the adjoining land, it has been assessed at its value as land in the condition in which the railway put it. Of course, as I say, they destroyed its value as ordinary land, but made it more valuable as land to them, and of course less valuable for assessment. In assessing street railways, telephone companies and other franchised companies, I think that the proper mode of assessment would be the same as is applied to any individual's property. I have been an advocate all along of no distinction between the individual and the corporation. Because a corporation is enabled to acquire large privileges upon the streets (for which, of course, they pay)—not for the property, but for the privilege of the franchise—I think they should be assessed the same as any other individual, at the value of that property. The learned County Judge in Hamilton, in considering the Bell Telephone Company's appeal, took that view of the matter, and he says in Ward Two—the only ward in which he held the assessment could hold—the assessment had been made in Ward Two; he held that not only the property in Ward Two could be assessed under the Supreme Court's decision, but he held that in that ward the property was assessable at its value, and in arriving at its value he examined the company's superintendent and arrived at what it would cost to replace that structure, and he deducted fifteen per cent, and arrived at the valuation of the company's property in that way. That assessment was afterwards appealed against, and the celebrated scrap-iron decision came in. Not only with us has the effect been to reduce the value of the rails, poles and wires in that way, but two years ago, on the appeal of the street railway, Mr. Edward Martin, solicitor for the street railway, was enabled to have it applied to the buildings as well, and the buildings with us were reduced to a scrap iron and brick basis—a large number of them. It is argued that as railways pay for privileges of the streets, that should be taken into consideration in their taxes. Now, I hold that what the railways pay for is the privilege of operation, not for the property; and not only that, but with us in Hamilton no other street railway or no other railway can be granted a right to operate a street railway in the city while the street railway are in existence, or until they have relinquished the rights upon certain streets. I understand from Mr. Fullerton that that is also so in Toronto; that is, they not only pay this mileage and percentage for the privilege of operating this street railway, but they pay it for the privilege of a monopoly and shutting everybody else out. Now, if the street railways had to purchase in the various cities the land on which to operate a street railway, it would cost them a great deal more money for interest on capital than they are now paying in mileage and percentage. In Hamilton they pay $400 and six per cent.—$400 per mile of single track. The value of land through which the street rail-

way runs in Hamilton varies from $350,000 an acre to $5,000 an acre in the suburbs. The street railway occupy an average of an acre per mile of track——

The CHAIRMAN: Have you these particulars in writing in a form in which you can put them in?

Mr. HUTTON: Yes, I have; $350 000 an acre at the corner of King and James street and $5 000 per acre in the suburbs. We have 19 miles of track which is assessed at $19,000—they went us $1,000 up there and agreed to $19,000. That would be worth about $20,000 a mile if they had to buy the land wherewith to operate the railway, as I figure it, which would be about $1,000 a mile on capital account at 5 per cent. that they would require, and they would still be assessable for the land if they owned it in fee simple, that is, if they bought the land through the centre of the blocks it would cost them about $20 000 a mile and they would still have to pay the taxes on it notwithstanding. The street railway in Hamilton, as I stated, pay on their tracks and wires $19 000, or $1,000 a mile. Their whole assessment I think in Hamilton is very close on $100,000; they have expended over $700,000, two hundred and some odd thousand dollars is their stock and $500,000 their bonds, so that on an assessment of $100,000 or thereabouts it has cost them $700,000 to get $100,000 worth of property—that is of course exclusive of their cars, which are personal property and not assessed. The Bell Telephone Company has about 33 miles of wire; that is, a single line—they have about 33 miles of line; I do not just remember how many miles of single wire, but they operate about 33 miles of streets, and they pay on that $10,000 which was the amount agreed upon with us after the scrap iron decision; they pay $10,000 taxes on that. The whole taxes of the Bell Telephone Company in Hamilton is about $27,000—at least the whole amount on which they pay taxes, I think the assessment value of which before the scrap-iron decision was about $165,000, and I do not think then we got it all. The Electric Light and Power Company I was not able to get at their mileage.

The CHAIRMAN: Have you a statement relating to the Bell Telephone Company?

Mr. HUTTON: Yes. I was unable to get at the mileage of the Electric Light and Power Company, which is the lighting company, because their system is at present somewhat disorganized, but they are a colossal company which have all the street railways and lighting plants in Hamilton but one, and their capital stock I understand is $3,000,000, but they have a very large plant at Niagara Falls, assessed at $100,000. They paid us $9,000 for their street plant. We have never had much trouble with them, neither have we with the Gas Company. The Gas Company had their matter before the Judge two or three years ago, before the scrap-iron decision came in, and had never taken advantage of it; and we left their assessment at the $60,000 which was the value arrived at by Judge Snyder at that time, and it has not been disturbed although we considered it too low, but we thought we had better leave well enough alone. That does not, however, alter the position at all. And I understand the Gas Company in Toronto consents to an assessment of a quarter of a million, whereas if they went to the courts they might get it down to $50,000.

Mr. FULLERTON: For two years they left it at the old assessment. It was $550,000.

Mr. R. J. FLEMING, Assessment Commissioner, Toronto: It was $550,000, and could have been a good deal more.

Mr. HUTTON: That don't alter the case any; they could, if they wished, and went to the courts, reduce these amounts. The Gas Company, of course, operates under charter and has with us in Hamilton the right to three feet of land on either side of their pipe, so that they have exclusively the use of six feet of land through the streets, which in fact is a little more because a six inch pipe would add six inches and a foot pipe would add a foot more, so that they occupy about as much land as the Street Railway Company does per mile. I think as I stated in the first place that there should be no distinction between the assessment of the land of these companies, or any other company for that matter, and the land of the individual. A man pays on his house and land all it is worth; and I think the fair way of arriving at the valuation of these companies would not be by assessing the franchise, because they have paid for that—that is what I take it they pay for when they pay the city this $300 per mile, which is about what it comes to, taking the mileage and percentage together; they pay for the rights to operate and for this exclusive franchise. Of course the Gas Companies pay nothing The Bell Telephone Company pays us $1,500 for their exclusive right, and give a reduction of $25 each on

telephones for civic use. I think the fair way would be to assess it at what it would cost to replace that plant less a percentage of reduction for wear and tear; whatever that percentage might be would be a matter to be determined. The Bell Telephone Company shewed before the Board in Hamilton that the life of the lines was about five years, and that the poles had to be renewed about every five or six years. Their copper wire of course lasts longer; the iron wire in cities wears out quicker.

Mr. D. R. WILKIE: On the ground that taxation should be on the basis of service rendered by the municipality, what services are rendered to the Gas Company in so far as the value of its pipes underground is concerned?

Mr. HUTTON: The service rendered them is the cheapness with which they can lay them in the streets without buying property. That I fancy is a very great service; they get them down without buying the land. But that is not protection.

Mr. WILKIE: The argument was used that fire and police protection were given and should be paid for.

Mr. HUTTON: Of course the gas lines do not need that.

Mr. FULLERTON: Wouldn't the answer to that be this, there are some classes of property that require very little protection, and some require a great deal; and while their pipes underground are, by the very existence of the ground protected, the gas lamps above are not protected; and what the company loses in one particular it gains in another for perhaps the most perishable property is the aboveground plant, and that has to be specially cared for, specially protected, and specially looked after by the city.

Mr. WILKIE: That is taxed, I suppose?

Mr. FULLERTON: That is all taxed alike.

Mr. WILKIE: It is valued I suppose?

Mr. FULLERTON: Not separately; or perhaps it is, and the sum taken as a separate item. But would it be fair for a man to say: The front of your house is liable to have its windows broken and we will assess it and not assess the back of the house or a row of houses on the back? Can we enter into these distinctions?

The CHAIRMAN: What protection does vacant land receive?

Mr. FULLERTON: It does not need it, but it is taxed because it comes in for a general rate of taxation If one portion like the part underground perhaps or the rails on the street are not liable to be stolen from there because of their weight and position, they do not require much protection; but surely it would be impossible to make these distinctions and carry them out in assessment law The Assessment Commissioner calls my attention to the gas in the tanks and other appliances of that kind, and that both police and fire protection are very necessary to gas companies.

Mr. MACKELCAN: Viewing properties of this class as real estate it received the same services from municipal expenditure as other real estate, that is to say, and improvement and development of the municipality, and the addition of its population and so on gives value to the property of gas companies, because as the city increases in population and is developed and extended, their plant is more valuable and of more service to them, and in that way they partake of the general prosperity which is brought about by municipal improvements or aided by municipal improvement in the same way as other real estate.

Mr. NICOL KINGSMILL, Q C.: Do their employees not pay their share of that?

Mr. MACKELCAN: They get their share as well. I am speaking of the company.

The CHAIRMAN: Is there anyone else desiring to be heard on that? If not we shall ask some of the representatives of the Company now to be heard.

Mr. R. J. FLEMING: Will you allow a reply to what the companies say?

The CHAIRMAN: Yes.

Mr. CHRISTOPHER ROBINSON, Q.C.: I represent about twenty companies of various kinds. The larger railways like the Canadian Pacific and the Michigan Southern, steam railways, if I may so call them, stand in an entirely different position from the other companies, and to those companies I can now say what is to be said—as to the other companies I might just as well say at once that we have not been able to place ourselves in a position to give the Commissioners the assistance we should like to afford them and which we desire, on the part of these companies, to afford them. The Chairman asked the different persons objecting to the present taxation of those companies to state their objections, but we would like very much to hear not merely objections to the present system but some definite basis upon some definite principle proposed to be put in its place.

We all know that there are a number of different systems upon which different writers and different thinkers on the subject propose to tax different corporations. I refer to Mr. Seligman's work. He says there are thirteen different methods; and I am told he is one of the best, if not the best, authority on the subject. He tells us there are thirteen different methods, all of which have their different advocates, all of which are subject to some objection which some of the others are not subject to; and the question is which of those are subject to the least objection, and which, considering all our circumstances, are the most applicable to our circumstances in this Province, and what is to be said in favour of or against them. We would like to have heard on the other side some system suggested, and the objections to it and the proposition in its favour discussed, not to put it in the words I have heard to day or in the words I have seen in the papers—"Tax everything in sight for all it is worth." An accurate answer to that is that of course in a very few years there would be very much less in sight with very little value attached to it. Of that there can be no question in the world. The first consideration that impresses itself on my mind is that the whole subject is full of complexity and difficulty.

The CHAIRMAN: All will agree with you in that.

Mr. ROBINSON, Q. C.: I think so. For that reason I have come to the conclusion that I will only address you for a few minutes in regard to these companies. Next, I believe myself that it is eminently a subject in which the real and true interests of the taxing powers and of the corporations to be taxed are to be considered. I do not mean to say you will ever get the people to be taxed and the people who tax them to agree upon everything; but as a matter of fact when we are told that these companies pay nothing and that they are trying to get off without paying reasonable taxes, all I can say is I am representing the companies and if the statements made by the other side are true there has got to be a change. It is mere platitude to say that these companies must pay what is fair; that they must pay their fair share of taxation like other people. Of course they must pay what is fair; of course they must pay in proportion to other people. But the question is, what is the remedy? Do we all agree on what is to be done? What struck us, looking at these different companies, was that we should get them together and should endeavour to see what their different views were and see if we could not all agree upon what we believed to be the true and the reasonable basis of taxation to be adopted in respect to such companies. We shall do that if we have time given us to do it; but up to this time we have not been able to get the companies together. We have communicated with all of them, and as the Board will see in a moment it is a question on which no company will care to commit itself without calling together the directors and being able to consider the questions fully; and it would take us probably several weeks to get them together and get them to consider and arrive at what, their mutual interests being considered would appear to them to be the most reasonable basis for adoption by the commissioners. Unless we can do that I think it is useless to say anything here at present. We would very much prefer to do that because we believe it would be more advantageous to the Commission than to make no proposition and advance no principle but leaving us to go before the Legislature to state our case there. It is just a question whether it is not in the power of the Commission to give us further time to discuss that question which has not been discussed or considered as it has to be considered, and to consider and formulate a scheme which we think could be reasonably proposed for adoption by the Commission. As regards all the companies except the Steam Railway Companies that is really all I have to say at present. We have seeen two or three of them, those which are most immediately at hand, and I think there is a tolerable agreement among them as to what they would think the most reasonable assessment to be adopted. I believe, too, that there will be a tolerable agreement among most people who have had time to consider this subject at all that a radical change in the assessment of most of the corporations will have to be adopted. The opinion seems to be growing that the taxation on personalty cannot be carried out; that you must tax by some different method, whether it be net profits or gross profits; capital at its market value or capital at its nominal value; all those different methods. But the crude system of taxing personalty just as you find it and where you find it is found to be imperfect and is said to be impracticable by all who have spoken on the subject, and I believe myself some other system has to be adopted. It would be useless for me to say we are satisfied with the present system and that therefore we want no change because the "Scrap Iron Case" as it has been generally

termed, is one which shews that the law is not in a satisfactory state. What I mean is that to propose to tax two things separately, which are utterly useless unless employed together, at their separate value, is not in accordance with reason. Some system will have to be adopted in preference to that, so far as I myself view the matter. In the next place I think it is very difficult to resist the reasonableness of the conclusion, which, from what I heard Mr. MacKelcan say, as representing the Municipal Association, he is apparently inclined to adopt. I think when you have a railroad stretching through various cities, and counties of the country it is impracticable, if you wish to get any business or sensible result, to have that portion of it which is in each different municipality or county taxed by different assessors ; and I think you must have some Provincial authority to fix the value of it as a whole, and apportion the results among the municipalities That would seem to be common sense as well as reason. You will never have, in my present view of it, any satisfactory result unless some such system is adopted. I am not going to say now what it ought be for I have not thought enough about it, but if you want to get a uniform system you must have for such an undertaking some uniform board to tax. If the commission are enabled to see their way to giving the time for the purpose I have indicated we shall be very glad to endeavour to get together and have the matter considered thoroughly, speaking of the different companies and interests which I represent and many more companies which intend to join and see whether it is not possible for us to assist the commission in that way by agreeing on what we consider would be the most sensible and reasonable method of taxation. I do not know that I can say more for those companies because the commissioners will see I am not in a position and have no authority to bring forward some proposition or system that some of them, for all I know, might have some objections to that we have not had an opportunity to consider, and because the result of that might be that either some individual companies or class of companies may be able to shew that their undertakings must be taxed on a different principle from that of others. We have only to listen to what has been said about the street railway companies to see how that may be. Street railways say that they paid for their franchise—well, it is said in one case they have not paid for their franchise and in another case it is said they have—in one case they paid for it in money if they paid for it at all ; in the other case they paid for it by reduction of the price of tickets and by the paving of streets. I am told that in some quarters of the States, what appears to be reasonable is that if you tax the franchise you must set off against it what they pay for the privilege of exercising their franchise What you may call payment of percentage is really payment of franchise—I do not know how that may be, because I have not authority to speak for the street railway—you can all see it is almost impossible to adopt any principle here. Some writers say you must tax in proportion to the benefits received ; but the moment you are asked what benefit does a vacant lot receive, or what benefit does a gas pipe under the earth receive, then you are told they must be taxed upon some general principle, and if they do not get any benefit they are not to be taxed, because you must adopt some general principle. I believe in that they are right, then you must adopt some principle that will do justice in all cases, which is not possible unless you consider the circumstances and the interests of each individual company as a basis of taxation. I do not believe you will find any system that will do equal justice, I believe it is impossible. It is absurd to lay down a principle and then say on that principle I ought to be exempt—because principle must cover you. Then with regard to steam railways, perhaps I can say what it is worth while to say as representing them—I am speaking now of such railways as as the Canadian Pacific—I do not know whether I have authority to represent the Grand Trunk or not, but it is of very little importance because what would apply to one would apply to the other—the Canadian Southern, and so on ; and I venture to think it will require the most serious consideration before any change is recommended in the system adopted for the taxation of their railways. Railways began in this country somewhere about 1851 and the first provision for the taxation of railways is to be found I think in 16 Victoria, chap. 182, section 21, and that section, if you compare it with the present section, is substantially identical, there has been no change made in the taxation of these railways from their very inception to the present hour ; except that it is more split up and divided into subheads and so on and I think they are exactly alike. Now, it was certainly a bold statement as I thought, and wholly unexpected, to find it said that that

section is not clear, and that if it means the construction which has been put upon it by the courts that was not the intention which is to be gathered from its meaning, and which the Legislature probably had. Now, so long ago as 1857, some two or three years after the inception of railways, I find that section, considered in the case which Mr. Fullerton has referred to of the Great Western Railway Company v. Rouse, in which I find these words, "The language of that clause is too plain to admit of doubt The Legislature has expressly directed what is to be assessed, and in respect to the roadway, it is the actual value of the land occupied by the road which the assessors are to place on the roll, and it is in so many words directed that that value will be admitted according to the average value of land in that locality. That excludes the superstructure, such as the iron rails, bridges, etc., and we have no doubt that was the intention of the Legislature "(a) Now, I cannot say whether that decision is sound or unsound, but I will say this : It must occur to every practical man in a moment, if that was not the intention of the Legislature, it is very unlikely that the municipalities for the forty odd years which have elapsed since then would not have attempted to make the Legislature say what their intention was. I have not heard from that hour to this, for the forty-seven years that have elapsed, that there has ever been any attempt to argue before the Legislature that the law should be changed, or before any higher court that the proper construction had not been put on the clause, or that the proper and real intention of the Legislature was not carried out. If that be so, apart from any other consideration, it certainly does require very serious thought before a change is made in that system so long adopted and carried out in this Province. These railways had been in operation during all that period. Enormous sums of money had been invested on the faith of their position in this country, including the system of taxation adopted, one may say adopted on the faith of a system which has been approved of by the country for the period of nearly half a century, without, so far as I know or am aware, anybody having made any objections to it. Now, there are various reasons why that method of taxation should have occurred to the Legislature as being reasonable. How far any of them did occur, and how far these considerations have occurred to others, and how far others have thought them sufficient, I am not of course prepared to say, but we know that all railways as commercial undertakings have never been successful, for nobody has ever supposed that a railway as a commercial undertaking could be successful. Our great railways have been enormously subsidized and our smaller railways have been bonused In other words the country at large thought it necessary to subsidize the great railways in order to induce them to enter on their undertakings, because they knew the companies could not hope to make it pay commercially. The municipalities have in innumerable instances thought it wise to bonus the smaller railways in order to induce them to build ; and we know as a fact those expectations have been justified. Our railways, as we know, with the exception of one, are paying no dividends at all ; and that one only a moderate dividend. They are exempt for two reasons under the Railway Act ; in the first place they are exempt as investing most of their means in land and real estate, and that would come within that clause ; and the members of this Commission will remember that in the conclusion of that clause they are not exempt from taxation by any means, for the shareholders are taxed on the income derived from the stock and all the property which they hold except that employed in the construction of the roadbed and superstructure ; in point of fact, all the real property which they have is taxed as land elsewhere. Now in the first place, Sir George Burton, the late Chief Justice, points out in the scrap iron case that there was a necessity for that clause, in order to avoid what would be practically double taxation ; because we all know double taxation, while it is not illegal, as I have intimated, was never thought reasonable. I do not intend going into all that subject at length ; but it is very palpable to every one that some such provision was necessary in order to avoid double taxation. In the first place, as has been called to my attention, and there is force in it—just the same force as in other matters if one thinks of it for a moment—it is rather curious to see how little police protection or protection of that sort these great railways require ; for their protection they have their own police along their roadbeds and so on ; and for their property which require police protection, such as their stations and buildings, they are taxed for the full value just as the owners of all other lands are taxed. And I daresay it occurred to the Legislature in

(a) 15 U.C.R. at p. 170.

these early days as absurd to tax a roadbed running through a country which the railway themselves have to protect, for the preservation of which and for the safety of their passengers they have to provide police ; it is absurd to call that land of the same character and requiring the same protection as other property. But if their building require police and fire protection (their stations and so on) they must pay, as they do pay, the same taxes as other people. That I daresay was among the considerations which induced the Legislature to adopt this system ; and I would say that it is a reasonable system and that it has all the sanctions that I have spoken of, and that it ought not to be disturbed. I have not yet heard any definite objections to it beyond the general objection that you must tax everything at its fair value. Our contention is that what is fair value is best determined by what the Legislature have themselves conceded and by what the country has approved of for the period of half a century, approved, without, so far as we know, any objections so far as I am aware ; and so far as I have heard I do not think the necessity for this Commission has been in fault found with the taxation of those railways, and I rather think it was on account of other matters and possibly it may be chiefly on account of the scrap iron decision ; but, also, on account of other corporations coming into existence and conditions arising of a kind which did not require to be considered before ; because these railways have been there from the beginning, and they have been taxed from the beginning on a principle, a system that has been thought reasonable ; investments in them have been made, relying on it, and we say it is a reasonable principle and ought not to be disturbed. As regards the system, it is a subject on which one might talk for a week as to the different systems of taxation of the different companies, and whether it is possible to devise or suggest any system which would be considered a reasonable system—I do not mean to say a perfect system, because I believe that is absolutely impossible ; when you talk of having a perfect system I do not believe it is to be found. It will require a great deal of consideration, looking to the circumstances and interests and positions of these different companies to see whether you can satisfy yourselves that one system is open to the fewest objections ; and that is the furthest we will be able to go when we come before the Commission and endeavour to satisfy them; but so far as I know the minds of any one of these companies, so far as I represent the companies, and so far as I shall represent the views of these gentlemen whom I have had an opportunity to consult with on behalf of the companies I am representing, it is perfectly absurd that the companies come here and recommend anything except upon the principle that we shall pay a fair rate of assessment by comparison with others. Whether corporations should be taxed as individuals I cannot say ; I can only say that writers on that subject say that it is impossible. Nothing is so plausible as to ask, What is the difference between an individual and a corporation? But when you go into it you can see it is very difficult to adopt the same principle with a corporation as you do with an individual, and I do not think I can say more at this moment.

The CHAIRMAN : I think you told us that you represented a large number of companies?

Mr. ROBINSON : Yes. The companies are, The Canadian Pacific, The Canada Southern Railway, The Great North Western Telegraph, The Bell Telephone, The Consumers Gas Company of Toronto, The Cataract Company of Hamilton, The Kingston and Pembroke Railway Company, The Kingston Light & Power Company, The Kingston, Portsmouth & Cataraqui Railway Company, The Ottawa Gas Company, The Sarnia Gas Company, The Hamilton, Grimsby & Beamsville Electric Railway Company, The St. Catharines Gas Company, The Berlin & Waterloo Street Railway Company, The Berlin Gas Company, The Chatham Gas Company, The United Gas & Oil Company of Sarnia and Petrolia, The Toronto, Hamilton & Buffalo Railway Company, The Gas Company of Port Hope and The Toronto Electric Light Company.

Mr. LYNCH STAUNTON . The Cataract Company represents the Street Railway, the Radial Railway and the Electric Railway ; there are five corporations involved in that.

The CHAIRMAN : We had hoped from the long announcement we made, the length of time that was given between the first announcement of the Commission and the first day of meeting that there would have been abundant time for the parties to meet, and to consider and determine what they would do in regard to appearing before the Commission and representing their different interests. I suppose, however, that the elections may have had something to do with preventing parties from attending to other things such

as this, and the Commission will consider what Mr. Robinson has said, as to whether it is possible to extend the time to enable the companies to confer together and agree upon some united course of action. I think it is very desirable myself, and if we can possibly we will extend the time.

Mr. Robinson: There is no use saying to the manager of a railway company, what do you want? Because they will not commit themselves without a conference.

The Chairman: What the companies have to bear in recollection is this, that this Commission is intended by the Government to take the place of any investigation that might have taken place before a select committee of the House on assessment law; and the report the Commissioners will have to make will be based on what is heard here; and it may be that the Government will not hear any statements when an opportunity has been given to all parties to come before this Commission. We are expected to suggest amendments to the law, and we can only do that upon what we hear here before this Commission

Mr. Robinson: In England these commissions sometimes sit two or three years.

Mr. Justice MacMahon: I know they do. Speaking for myself I think the opportunity should be given to all those corporations to have a conference through counsel or otherwise to see if they can reach a consensus as to what their views are.

Mr. Lynch-Staunton: It seems to me it would only be fair for the municipalities to frame some system which they propose to adopt so that we may submit it to the different companies, because we have not the faintest idea what they want yet.

The Chairman: There is nothing of that kind before us, no proposition from anybody as to what they want.

Mr. Lynch Staunton: We will be prepared to submit a counter-proposition for to criticize theirs and to show the difficulties in it. But they have brought about this Commission—

The Chairman: You have heard to-day what objections are being made by the Municipal Association and the people they represent and others to the existing law. I do not know that these gentlemen are bound to suggest a concrete proposition in regard to amendment.

Mr. Lynch Staunton: It would be advisable if they did.

The Chairman: It would be most useful no doubt if that was done, and would be of very great assistance to us; nevertheless I do not know that anybody is bound to do that. Anybody is at liberty to come here and point out any injustice in the existing law and to say there is a palpable injustice which ought to be remedied in some way or other. It is for the Commission to suggest what the remedy ought to be, and the Legislature to carry it into effect.

Mr. Lynch Staunton: I do not think they would be bound to; but I think you might ask them to do it. Or suggest that they should do it. I think it would be of assistance to everyone.

Mr. Martin: Is it intended to adjourn? If it is intended to adjourn just now I would like to say a few words.

The Chairman: No, it is not intended to adjourn except for lunch bye and bye.

Mr. Fullerton: But there are none so blind as those who do not wish to see. I think it was clear from what Mr. MacKelcan said and I said that what we were wanting was that all property should be liable to taxation at its value. Section 18 provides that wards should be struck out and done away with so that property should not be valued as a scrap valuation but at its proper value.

The Chairman: I think I understood Mr. Robinson to say that the present state of the law which gave rise to that decision is unsatisfactory. Am I right?

Mr. Robinson: Speaking personally I said so. I am not representing anyone in saying that.

Mr. Fullerton: We just go one step further than that and say that the companies should be assessed on their real and personal property, and, with these slight changes, we are so reasonable that we are content with the present system without roaming the world to find others; and having put it in that way we thought we had not laid out a very heavy task for these gentlemen.

Mr. Wilkie: Will you repeat those.

Mr. FULLERTON : The change in clause 28 as to the mode in which property should be valued so that all property shall be assessed at its value.

Mr. JUSTICE MACMAHON : By striking out these words at the end of the section.

Mr. FULLERTON : Yes. Secondly, that clause 18 should be remedied so that it will not be the basis or ground for a scrap valuation but that the property of companies shall be assessed at its value as part of a going concern taking it so it should not be reduced to a scrap heap before it is valued but should be valued at what it cost to put it there and make it part of a going concern less its reasonable reduction for use, the same as a house or other property would be valued. And thirdly, that companies should not escape taxation on their real and personal property in the same way. Sir George Burton does make the remarks my learned friend has referred to ; but in the same judgment Mr. Justice Patterson pointed out to the contrary ; and I think an examination of the judgment will shew that Mr. Justice Patterson was correct except as to income. As to the adjournment I am confident the companies will be satisfied with any adjournment that will be a good long one ; at present they are escaping, and there is no reason why an adjournment should be long ; but if an adjournment is granted we want it such that the Commission will be able to report at the next session, or if not then at the earliest possible moment. I do not desire to enter into the difficulties Mr. Robinson may have had in getting these people together ; they certainly seem to have got together sufficiently to have decided on one counsel. If it is an adjournment that does not mean delay it will receive no opposition from me at any rate, nor from those I represent.

1.15 p.m , adjourned to 2.15 p.m. On resuming,

W. B. CHRYSLER, Q.C., (Ottawa) : I represent here the Canada Atlantic Railway Company and I concur with what has been said by Mr. Robinson with regard to the position of steam railway companies. We have no interest in any of the other classes of companies which have been discussed this morning, but I am concerned with the subject which has taken a good deal of the time this morning, namely the assessment of real property in wards under section 18 of the Assessment Act, and in a few words I might say all that I have to say upon the subject. In the first place we consider that the system of assessment which we now have, as it has been interpreted and expounded by the judgments upon the construction of the Act affords a satisfactory working system with which no fault has been found, except that it does not conform with the ideal system propounded that all property, real and personal, should be taxed. The present system should perhaps be stated so that we shall see how far as are upon common ground. The present system as explained by Mr. Robinson provides for assessment of the real estate occupied by the right of way in each municipality in which it is found, without any assessment of the superstructure or money expended by the railway to construct the railway. In addition to that the other real estate of the companies is liable to taxation at its proper value.

The CHAIRMAN : How does that work out, Mr. Chrysler ? I suppose in the township municipalities the land is assessed just as an equivalent portion of the adjacent land ?

Mr. CHRYSLER : Yes, sir. Whether or not the section as originally framed contemplated the system which has been evolved from it is perhaps now difficult to say, but the system evolved from it by the judgments has worked out a very fair and reasonable assessment of farm land. I direct myself to that particularly because that has not received any attention in the discussion up to this point. When a strip of land of the width of the right of way of the railway company is cut off for railway purposes, without some guide from the statute it would be difficult to say how much land ought to be assessed. It has lost its value as farm land by reason of the separation. It is not saleable again except to the adjoining proprietor. It could not be sold to anybody except adjoining proprietors as farm land. It has had expended upon it money which makes it a railway, makes it a highway of that description, but that has even added to the uselessness of the land for farming purposes. Then two or three methods of assessing that land might be suggested. The amount expended upon it by the railway company. Its value as compared with the adjoining lands through which it runs ; or its actual value ; and these three would all be different. The actual value for farm purposes has been almost destroyed. Its improved value would be very much greater than the value of any of the adjoining land. The value, as fixed by this section and the construction that has been put upon it by the judgments, isn't the value of the land but the value of a similar strip

of farm lands adjoining, and the result is that it is capable of mathematical demonstration. You can take a strip of land of that kind running across a concession in a township; take the lots through which it runs; take the assessment, divide it by the acreage and you have the average value per acre, which is the acre value of the railway right of way. Now, that is simplicity itself. It is fair and reasonable as between the different municipalities and has never created, so far as I am aware, any objection in the country. When it comes to be applied to land in cities the rule is perhaps not quite so simple, but still it is capable of very easy application to the circumstances of land in cities and towns. Now it is said that that system is objectionable because you do not in effect tax the capital of the company. You do not get the money they have expended in building the grade, and, as one of the members of the Commission suggested this morning, the grade may have cost a thousand times the value of the land if an extensive embankment or viaduct or tunnel has been built upon it; but the slightest reflection will shew that the money expended upon it would scarcely in any case be a reasonable method of assessment.

Mr. FULLERTON, Q.C.: I may say, as far as my argument is concerned, I did not intend it to go the distance to which Mr. Chrysler supposes it went. That so far as the valuation of the land is concerned I would not quarrel with the section. The only ground upon which I put my argument was that the superstructure is entirely allowed to escape. I do not speak for Mr. MacKelcan, but to obviate consideration of that I make that suggestion.

Mr. CHRYSLER: The embankment of course is part of the super-structure. It forms part of that upon which the railway has expended money to make its roadbed. If my learned friend means by super-structure simply the ties and rails—

Mr. FULLERTON: I mean what you have built upon the land. The embankment is part of the land.

Mr. CHRYSLER: The ties and rails, bridges and tunnels are on the same principle; they are no different in their nature from the money which has been expended in making the embankment. They are the result of the expenditure by the railway company to make a roadbed which has not resulted in improving the value of the land for any purpose except for the purposes of the railway.

Mr. JUSTICE MACMAHON: I suppose as good an illustration as any is to be found in Hamilton where they cut away the embankment and make the roadbed almost on the level of the water front. There was an enormous amount of excavation, I think sixty feet of excavation there. It could not be said that what they did in making that excavation entitled them to assess the land in any other way than ordinary lands could be assessed.

Mr. MACKELCAN: If the intention of the Act were held uniformly to be as stated by Mr. Chrysler we could have no fault to find, but with us, unfortunately, while the land was valued by the assessor at the same rate as the land in the neighbourhood, it was contended, on the part of the railway company, that the value of the land had been greatly depreciated by the fact of a deep cutting being made and the land being at quite a different level from that of the land in the neighbourhood.

Mr. JUSTICE MACMAHON; I did not understand Mr. Chrysler to say anything of the kind.

Mr. MACKELCAN: No, I say that was what was held by one of our judges upon an appeal in Hamilton, as being the true construction of the Act. Mr. Chrysler's construction of the Act we would be quite content with, that is, that the lands should be valued at the same rate per square foot, we will say, as the land in the immediate neighbourhood.

Mr. CHRYSLER: I think that is right. I don't think there will be any question about that. I have been surprised to hear about any decision.

Mr JUSTICE MACMAHON: Mr. Chrysler applied the principle that he was contending for in country places, in rural districts, to the cities under the altered circumstances of the cities and towns.

Mr. HUTTON: That is quite acceptable.

Mr. FULLERTON: We don't quarrel with that.

Mr. MACKELCAN: We are quite content with that, but there has been a different construction put upon the statute in our city, and we would like to have the statute made

more clear upon that point. They say, although, this might, in its natural state, have been of the same value as the surrounding property, yet the condition has been so altered by the excavation that it is not now the same land.

Mr. CHRYSLER: I do not think the statute need be altered to meet the special case spoken of by Mr. MacKelcan. It seems to me that it is quite clear that the intention of the statute is that the area of land taken for the railway is to be valued in proportion to the value of the lands adjoining. They may have expended thousands upon it in making the road bed; in doing so they have destroyed its character as farm land but none the less it should be assessed for the same value as the land adjoining it. I do not think the statute can fairly be given any other meaning.

The CHAIRMAN: There might be a very large expenditure on a very small part of the land in filling up a sink hole for example.

Mr CHRYSLER: That is a very common case. The railway might fill a ravine or river bed which was not valuable as farm land, but the value of the adjoining land is the test; not the value of the land which is taken, but the value of the land which is left on one side. All I have to say with regard to that is that the present system as applied to railways—not in the special instance referred to here in cities and towns—but throughout the length of the land, from one end of the land to the other, is a fair and reasonable system. It assesses the land in each municipality according to the value of the land in that municipality. If the land is more valuable it is assessed higher. Near Ottawa for instance where the railway runs through wild land, it has scarcely any assessable value, and properly so. Then there are reasons which I would like briefly to refer to why the property of the steam railway should be very carefully considered. It has been pointed out by Mr. Robinson that we never have had any other system of assessing railways. Our railways have grown up under the system of assessing the right of way at its land value. The system has remained to the present date without change, and although it is no doubt within the jurisdiction of the Legislature to alter this mode of assessment, I submit with very great confidence that a change should not be made without the very strongest reasons in its favour, because money has been invested and roads have been built under inducements held out by municipalities and by Dominion and Provincial Governments, which probably never would have been constructed if it had been proposed or known that the property of the railway company should be assessed at its improved value as railway property and that it would have been attempted to assess the rolling stock of the railways as personal property. Then another consideration perhaps of policy but principally of history; a steam railway constituted under the Railway Act of Canada, because it is only of that I am speaking; I notice that the syllabus of subjects speaks of companies chartered by the Provincial Government, but I do not suppose that the attention of the Commission will be confined to that. There is no doubt that the Provincial Government have power to vary the mode of assessing the property of the Dominion railways in this Province. I say that a railway constructed under the authority of the Railway Act of Canada is not, either historically or actually wholly private property. The Commission will remember that in the inception of the construction of railways they were looked upon as highways. They were chartered as highways. The original idea of the railway in England was that a company should be chartered to lay down lines of rail upon land prepared for the purpose, and that anybody should be at liberty to bring their wagons and haul them up and down those lines of rail. It was not at the outset intended that railway companies should have a monopoly of transporting goods upon the lines they constructed. It was only when experience shewed that it could not be profitably or conveniently done by any company except the company owning the railway that the business grew into its present shape of being conducted by companies which owned the rolling stock as well as the right of way. There are traces of that in the Railway Act. That it is not private property in the fullest sense is shewn by the fact that we cannot exact a toll except by the sanction of the Government, and the word "toll" points to the system of its being a tax paid in the same way as toll upon the ordinary public roads for the passage of vehicles when constructed as highways. The tolls paid for transportation of goods by railways are in the nature of tolls still paid in some countries for the transportation of goods on ordinary public highways constructed by companies chartered for that purpose. Then another relic of the system is in the provisions of the Railway Act which require us to give facilities to other companies. A

company does not live to itself. It is obliged to transport the goods of all persons who bring it goods, and in addition to that it is obliged to exchange traffic with other railway companies. It is obliged to exchange cars and transport the cars of other companies. In this way its nature, as being distinct from the private property of a private corporation, is clearly marked. Then there is just one other consideration. Transportation itself is a public good. It is as pointed out a good that has been sought by the encouragement given by governments and municipalities in the history of this country and one mark of which I find in the Assessment Act itself—I thought Mr. Robinson would have referred to it—is about vessels. Section 7, sub-section 29: "Vessel property of the following description, namely, steamboats, sailing vessels, tow barges and tugs; but the income earned by or derived through, or from any such property shall be liable to be assessed." I have not looked up the history of that subsection. I do not know how long it has been a part of our Assessment Act, but it is a confirmation of what I say that it has been part of the policy of the country to encourage these transportation companies, and if you should recommend the taxation of the rolling stock of the companies it is apparent that it would not be reasonable to exempt vessel property which is transportation property used in competition with the property of railway companies. But there is a wider view than that which that leads to. Our transportation is carried on in competition with lines of transportation in the United States. We can only live by carrying it on so cheaply that we can afford to compete with these companies. A large part of the business of the company which I represent here is foreign business, business brought from Duluth and Chicago to the western end of the line and brought from the New England and middle States of the United States to the eastern end of the line for transportation over the railway. Anything which adds to the taxation adds to the cost of conducting that business; is a charge upon transportation which must affect the result of a competition between it and the lines on the other side. Of course that is merely a question of policy but still one which admits of very serious consideration and no doubt was one of the things which the Legislature had in mind originally when this assessment was devised, that of encouraging companies to extend their lines of railway to carry for the people of the country as cheaply as possible.

Mr. WILKIE: Do you wish to apply that to vessel property? You were speaking of vessel property.

Mr. CHRYSLER: I say that vessel property is exempt under the Assessment Act, and I point to that as indicating a policy of exempting the instruments of transportation. I do not desire that vessel property should be taxed. That is not part of my argument, I am merely pointing out that that is the existing law. I have said I think perhaps all that is necessary to say. I wish in closing simply to ask the Commission to separate very clearly the business of the steam railways from the other companies which are referred to in the argument which we were discussing to-day. The companies which are carrying on local business depending upon franchises from municipalities. The considerations which apply to them I think are entirely inapplicable to the business of steam transportation.

EDWARD MARTIN, Q.C. (Hamilton): I represent the Hamilton Gas Company, and I think the first thing one has to say is that approaching the question of taxation you are at once struck with the enormous difficulties which the fairest minded men are put to face in trying to hit upon any principle of taxation which will be fair and do justice. Nothing can be wider than the difference between a gas company, which is a purely local company, and, we will take it, these railway companies or telephone companies or the electric light companies or other companies which do not, as it were, originate and carry on their business within the municipality itself. Now, the gas company does not hold in any sense a municipal franchise. It has no franchise whatever, no right, no exclusive right to furnish gas; it has got no right to exclude any other company from furnishing any other luminant; it simply takes its chance with any other number of companies which the city may choose to start—that is the effect of the Conmee Bill—which any company may choose to start to supply light to a city. My learned friends who are practically representing the municipality say that the companies get off for a song. Now, so far as the local gas company is concerned, the figures show not only the contrary of that, but that they are assessed very high. For instance, the capital of the Hamilton Company is $255,000; that is all paid up in cash; there is no water or anything of the kind. The real estate

was assessed at $137,680, that is the buildings and the gas machinery and everything connected with the manufacture of gas, except the mains, and the mains were assessed at $60,000. That is a total assessment of $197,680 as against $255,000 of actual cash paid in. I think no person can say that that is a bagatelle assessment. Now, there is no sense in which this assessment is anything of a scrap-iron assessment; quite the contrary. The Company were assessed by the city an enormous sum for the use of the streets, and also a very large sum for the mains. The matter was carried in appeal against the assessment and the question was fully discussed and a written judgment delivered by Judge Snider, and it is to be found reported, The Hamilton Gas Company vs The City of Hamilton, 32 Canada Law Journal, 1896, p. 366; and in fixing the value of their pipes in the place, *in situ* in the street, he considered and allowed the city the full value as a going concern, taking in connection with this that the Company placed their pipes in the streets—without which of course it is perfectly clear you could not have a gas company if you had not pipes in the streets, it would not suit either the company or the citizens—and taking that into consideration, he made that allowance, and that has been satisfactory, so far as I know, both to the city and to the Company. The Company as a matter of policy never sought to have the pipes valued simply as old iron. I have nothing more to add to that than what my learned friend Mr. Robinson has said. As a weapon of defence it was justifiable in the companies using it where they were attacked exceptionally, but no one could pretend to say that that was a proper basis upon which to fix an assessment.

The CHAIRMAN: For the future?

Mr. MARTIN: For the future, no. Where you find a company, intended to supply a useful purpose, tearing it into half a dozen scraps, does not seem to me to be business. On the other hand the city shou'd not, under colour of taxing it as a going concern, tax the franchise, because what is called the franchise after all is simply the power to do business. You find you have the wholesale drygoods and large mannfacturers here incorporated. They are simply trading concerns, and no one would say that they should be charged for the franchise; and no good reason could be given why a gas company should be charged for the franchise any more than they.

The CHAIRMAN: The word "franchise" seems to be used in a somewhat different sense by some writers; that is to say, it is confined to the right to use real estate for the purpose of their business.

Mr. MARTIN: Of course it is very difficult to get at.

The CHAIRMAN: It is treated as interest in land. More corporate capacity is not a thing which could be taxed.

Mr. MARTIN: Well then, I say that as far as any use of the street is concerned, it is taxed and paid for—if there is in use any number of pipes there—by the fact that the pipes are put down into the street are fixed at the value of a going concern, which includes that value. There would be no gas company if you had not the mains, and there would be no mains if you had not the power to put them in the street. Then again, there is particular legislation affecting, so far as I know, only two companies—The Toronto Gas Company and The Hamilton Gas Company. That affecting the Hamilton Gas Company is the Ontario Statute, 59 Vict., Cap. 112, 1896, under which the arrangement is made that whenever the profits of the company, after setting aside a sufficient sum to pay for renewals, dividends and expenses, reach a sum sufficient for that purpose, the gas shall be reduced five per cent. per thousand feet.

The CHAIRMAN: Is that applicable to both Hamilton and Toronto?

Mr. MARTIN: No, the Toronto Act was passed in 1887, and is 50 Vict., Cap. 85; it is very much the same, except in the wording of the clause as to renewals, but for all practical purposes they are very much the same; that is to say, both constituting a binding obligation on behalf of the gas company to reduce the price of gas whenever the profits are sufficient after paying a dividend agreed upon and the expenses, whenever they afford a margin of profit. It also contains a further provision that whenever the stock is to be sold it is to be advertised and sold by public auction. Then again both the gas companies are in addition subject to the revenue tax of the Province under the provisions of the Ontario Revenue Act, 62 Vict., Cap. 8. Then it should I think be borne in mind that gas is a prime necessity for light, and it is a prime necessity for heat, and that nowadays, speaking of Hamilton, within a fraction of half the gas produced is

sold for light and heat. It certainly is not the interest of the municipalities to tax these companies out of existence, nor is it the interest of the company, properly considered as a business transaction, to wish to escape or to escape any reasonable measure of taxation; but to say that these companies are getting off, as it was put, with a song, is simply wandering from the facts

Mr. MacKelcan: If I might take this opportunity of saying to Mr. Martin that so far as the municipality of the City of Hamilton is concerned we are quite content with the assessment of the gas company there, and I think in opening reference was made to that. Apparently Mr. Martin quite acceded to the request that we are making, that is, that property of this character should be assessed as a whole. The gas company could have taken advantage of the technical ground that this property was all assessed in one ward, the whole of the gas mains were in Hamilton, but instead of taking the objection that was taken in Toronto, and also taken by other companies, that the assessment should be divided up into wards, and the value treated as if the wards were cut off from one another, he said, "Well, you can distribute it amongst the wards just as you like, it makes very little difference;" and so they arranged that their Manager and our Assessor should come together and appropriate this value proportionately to the different wards, and that was done; and so far as value being given to the franchise, I think that Judge Snider took a very intelligent view of the value of the franchise in connection with this assessment. It was urged on one hand at the outset—

The Chairman: Mr. MacKelcan, Mr. Martin has not finished.

Mr. MacKelcan: Mr. Martin appeared to be working against something that we did not contend for.

The Chairman: But we have the general principle before us, and not the particular instance of the Hamilton Gas Company, Mr. Martin is simply using that as an illustration.

Mr Martin: This is not simply a question between the gas company and the City of Hamilton, it is a general question, and I confess to considerable dread of the franchise, of what we are told was going to be taxed as a franchise, of what might appear, or that we are going indirectly—

Mr. Justice MacMahon: You are reaching out for the future?

Mr. Martin: Precisely. Leave us where we are and we can stand it; but I don't want to see effect given to what apparently I must say appears to be one object, that is, to shuffle all the taxes you can upon real estate and the local companies. When you come to look at our municipal system, at the very outset of it you see natural crowding; the real estate people want to get rid of the taxes, and the personal people want to get rid of the taxes. If every person paid his share we would be all right, but we find, the very first exception, all personal income up to $700 is exempt. Well, I venture to say that if this personal income up to $700 paid its fair share it would operate in many ways very desirably; we would all be paying something, and the people who now simply vote large indebtedness, high rates and all this sort of effect, don't pay any of them. If they had to pay any portion of it, supposing it was graded, suppose you took up the $700—

The Chairman: We are not on exemptions yet.

Mr. Martin: But exemptions come around to us.

The Chairman: That is to be discussed as a separate subject.

Mr. Martin: Well, I do not wish to get out of the ground.

The Chairman: We have endeavoured to divide this large subject up into definite sections

Mr. Martin: Yes, but we are favoured with, not an exemption, but a full imposition. The gas company, for instance, sells goods; while it is a manufacturing company it is also a mercantile company.

The Chairman: Do you want the gas taxed as personal property?

Mr. Martin: No, I do not want the gas taxed as personal property at all.

The Chairman: According to MacKelcan's argument it ought to be.

Mr. Martin: Well, I don't know anything that ought not to be taxed, according to Mr. MacKelcan's argument, except churches.

Mr. Justice MacMahon: The only gas that ought to be taxed they say is natural gas, whatever may be included in natural gas.

The CHAIRMAN : That may be entitled to exemption because it is not in sight, it is not visible.

Mr. MARTIN : Oh, yes, it is very visible (Laughter).

Mr. FULLERTON : It would be a good subject for a turn-over tax.

Mr. MARTIN : What I wish to emphasize is simply this : That the rule of taxation which applies particularly to railway companies and companies operating in more than one municipality does not apply to a gas company. I also want to point out that the gas company to-day is subject to additional assessment through The Ontario Revenue Act, and that to tax it further would simply be to drive it out of existence ; and I think that a gas company which provides, as this does, light and heat—two articles of prime necessity—ought not to bear more than its fair share of taxation. I regret to say that I am not in a position to make a suggestion as to what would be a precisely fair principle, because the more I have tried to study this the more I found out how very difficult a thing it is to hit upon any principle that is fair. What I wish to emphasize is this, that as it stands we are paying at least more than our share, and that if you take for instance, as it stands now, the gas company not only pays this large sum on its real estate, but the shareholders have to pay on their income, and that income is derived of course from the use of the whole of this sum which is assessed in real estate, because it is machinery that creates the gas out of which profit is made ; so that we are virtually taxed first for our real estate, and then we are taxed on the product of our real estate. The merchant is not so taxed ; the merchant is taxed on his goods, and he pays no income, and that is a point that I wish to emphasize, that as it stands we do not get off with a bagatelle, we are taxed very heavily ; we are taxed also by the Ontario Government, and we are paying taxes upon our real estate in which the bulk of our money is invested ; and we are also paying taxes through our shareholders on the product of our real estate. I also want to point out that taking a company like The Hamilton Gas Company and a company like The Toronto Gas Company, operating, one would suppose at first sight, on almost the same lines, that the amount of taxation borne by one should be borne by both, but that is not so. The Toronto Company has a capital of seven times that of the Hamilton Company, but its profits are ten times that of the Hamilton Company, simply because it has a bigger out turn ; so that in some way, either by grading the different companies, or putting them in different schedules, it must be borne in mind that the rate which a very big company could bear would simply amount to extinction of the small company. I have not the figures of the amount of capital and earnings of the two companies, but will be very glad to hand them in. (*a*)

GEORGE J. BRYAN : May I ask Mr Martin a question ? He has stated that the Gas Company of Hamilton—he includes also other gas companies——

Mr. MARTIN : No.

Mr. BRYAN : The Gas Company of Hamilton, he says, possesses no franchise or monopoly of the streets different from that of other companies. Will he state to this Commission the period for which the Hamilton Gas Company have secured their franchise ?

Mr MARTIN : It is perpetual.

Mr. BRYAN : Then they have a monopoly—exclusive monopoly.

Mr MARTIN : That is a decided *non sequitur* ; there is hardly a big city in which there are not two companies.

Mr. BRYAN : There can be no competition.

Mr. MARTIN : That is an absurdity.

Mr. JUSTICE MACMAHON : The municipality can grant to another gas company the right to use the streets for another purpose.

Mr. MARTIN : Yes, or subject to whatever the correct meaning of the Conmee Bill is ; they could start a company themselves. In Detroit there are some three or four gas companies ; in London I suppose there are fifty gas companies ; in Birmingham there are a dozen ; in Buffalo there are two or three ; it is however an absurdity to say that there is a monopoly ; there is no more a monopoly than there is in a drugstore.

Mr. BRYAN : The gas company of Hamilton is in exactly the same position as the Toronto Gas Company ; it has a perpetual monopoly, and no company can be organized in this community.

(*a*) See No. 11 in Appendix A.

The CHAIRMAN: We need not dispute, because it depends upon the statutes and not upon mere statements.

Mr. JAMES BICKNELL: I appear on behalf of The Toronto Railway Company, and I may say that until the attack was formulated by Mr. Fullerton and Mr. MacKelcan this morning we really did not know exactly upon what lines we were to be attacked, and we expected to hear from them some basis which would go to show that the present basis was wrong. So far as my particular clients are concerned, they and one or two other companies, I imagine, such as the Hamilton Street Railway and London Street Railway, stand in the same peculiar position—a somewhat different position from that occupied by the other companies possessing public franchises; and I think I may put the argument on their behalf just in this way: That this Commission and the Legislature would not be asked to tax any of those corporations at all had it not been for what is called the "scrap-iron" decision; and I will point out why that is so. From the time the Fleming case was decided, over twenty years ago, down to 1895, it was assumed that the rights that this Company had upon the streets of the city were not taxable.

The CHAIRMAN: That is, that the Act did not extend to them?

Mr. BICKNELL: The Act did not include the taxation of the rights which they had upon the streets or of the property which they had upon the streets. It was assumed; and when the agreement between the Toronto Railway Company and the City was entered into in 1891, one can not doubt, in fact it would be absurd to suppose, that that construction had not an influence in the purchase money or the annual tax, I don't care which way it was put, for that purpose—any sums of money, in other words, which were to be paid over at that time or from time to time by the Toronto Railway to the City for the use of those privileges; and if it had not been discovered subsequently that these things really were taxable I venture to say that if the City of Toronto had come to the Legislature and had said, "This property is exempt from taxation, it should not be exempt," the simple answer would have been—and would have been a cogent argument for the Legislature—"You made your bargain upon that basis, you had that law before you, you knew for over twenty years that this property was not taxable, and you fixed your purchase money upon that basis;" and the Legislature would then very positively have said, as it seems to me, "We will not tax something for which a certain price has been paid to the municipality upon the basis of its not being taxable." Now, both parties were wrong in their view of the law. It was found they were taxable upon a certain basis. It is quite likely that the Toronto Railway Company is not in a position to say, "The agreement was based upon a mistake of law, we are entitled to relief;" but they are at least entitled to say the same as they would have been entitled to say if it was discovered that the law was right, "We are not to be subject to any greater portion than the law did impose upon us at the time that agreement was made." To take any other position it seems to me is unjust, and it may be that it comes pretty close to the verge of dishonesty. The City, at the time it made its bargain, had certain articles to sell; it had these particular rails, which were then *in situ* upon the streets, for sale; and it sold them as personalty. For every tangible asset that it handed over to the Railway Company it got so much cash, the full value of it as fixed by an arbitration. The subsequent sums which were to be paid were fixed upon a basis of so much a mile for the use of the streets, which we will assume was based upon a proper valuation and estimation for the privilege of using the streets, an annual tax. Now, that annual tax amounts at the present time to something like $200,000 a year. That includes the $800 a mile. There is about $115,000 paid as a tax—what I submit is a tax for the use of streets of the City of Toronto by the Toronto Railway Company—and there is something like $80,000 which becomes payable to the City of Toronto for mileage purposes. In addition to that they pay the taxes which were then payable by them under the provision to which my learned friend, Mr. Fullerton, referred, namely, that the school taxes were to be paid as public school taxes. They pay the taxes, then, on what was assumed to be assessable, namely, the ordinary real estate of the Company apart from the property which was upon the streets; and the provision for the taxation of the personal property for public school purposes may therefore, without any violence to the language, be deemed to refer only to such property as did not consist of the streets. Now, the difficulty of assessing the street property and of showing that no other basis of assessment was intended than an assessment by way of the annual payment for the franchise, can easily

be tested by looking at the fact that that franchise lasts only for a certain length of time. It was the right to use those streets for a certain length of time; at the end of that time all that property becomes valueless. Now, if the property is assessed as a going concern, you are trying to assess two things: You are trying to assess the particular property which is there, and you are trying to assess the right to run it. That particular property which is there is of no value without the franchise to run it; and assessing it as a going concern really is assessing the franchise over again; it is double taxation, and unless——

The CHAIRMAN: It looks very much like that.

Mr. Justice MACMAHON: You could not get the yearly payments unless the rails were there, unless the cars were there, and——

Mr. BICKNELL: Quite so. I can quite agree with the proposition which was made—the broad, general and therefore somewhat obscure proposition which was made—by Mr. Fullerton and Mr. MacKelcan, that every piece of property should bear its fair share of taxation, that every one should be assessed alike; and then I just put it to this Board in this way: Examining the $200,000 a year that the Toronto Railway Company pays to the City of Toronto, or about one-sixth of its gross earnings, and add to that the revenue tax, and add to that the ordinary tax that it pays upon its real estate, and is it not paying a great deal more than its fair proportion? Or can you say that such a case of injustice is made out as will justify this Board in representing to the Legislature that the tax of the Toronto Railway Company should be increased—that what was assumed to be not taxable should not only be taxed to the extent of the law as it then was, although it was not supposed to be the law, but should be taxed to the extent of a greater law? We are putting it now purely on the sense of justice and is the City of Toronto entitled to come to the Legislature and say that the taxes should increased? I point out that very large sums of money had been invested not only by the citizens of Toronto but by persons elsewhere, financial concerns, in the bonds of the Toronto Railway Company, and if the property were taxed to the extent that it is suggested by the municipalities it would practically reduce the dividends by perhaps one-half. The present dividend is only four per cent.—not an extravagant dividend, and not what could be said to be an extravagant dividend—and if two per cent. of municipal taxation were placed upon the property of the Toronto Railway Company it would practically mean that that property would be reduced practically from a four per cent. dividend to two per cent., and an enormous loss to the Company in that way would impair its financial stability. When one is considering legislation one must legislate considering the financial interests involved and the credit of the particular Province, and unless some good reason is shown for imposing such a large burden upon the companies I represent, then I submit no greater burden should be imposed upon them. Assuming now that the property were assessed as a going concern, the same value should be placed upon it—and this perhaps is an argument in favour, after all, of the absolute justice of the scrap-iron principle—you put a certain value on the property this year, you say it is worth so much this year. When you come to the 29th or 30th year of the franchise the property should be worth just as much; it is probably earning a great deal more, worth probably a great deal more if you assess it on the going-concern principle; but as soon as the franchise ceases it is worth nothing—the City have merely sold to us the right to run upon their streets for a certain length of time, and at the end of thirty years that property becomes of so much value only for what it can be sold, and the City has so provided in their agreement.

Mr. JUSTICE MACMAHON: You have agreed upon terms under which it will be taken over by the Corporation?

Mr. BICKNELL: Quite so, and that was the condition without reference to its value as a going concern; in other words, if we had been getting its value as a going concern—and this is perhaps the test as to whether its value as a going concern is a franchise—we would have practically a perpetual franchise, and that would be taxable. Now, the only principle that I put to the Board is that we are taxed enough; we are paying our fair proportion, paying much more than our fair proportion for such companies. If there is to be any general principle of taxation for such companies in order to pay their fair proportion, then there should be no change from the law.

Mr. FULLERTON: What is the stock of your Company?

Mr. BICKNELL: Six millions.

Mr. RICHARD J. HODGE: What is the bonded indebtedness of the Company?

Mr. BICKNELL: $35,000 a mile for about 93 miles; I think something over three millions.

Mr FLEMING: In addition to the six millions?

Mr. BICKNELL: Yes.

Mr. FLEMING: That is about nine millions?

Mr. BICKNELL: Yes.

Mr. A. J ROEBUCK: With the taxes as they at present are upon the gross amount that they pay to the city now, has their franchise a saleable value? If it was put in the market would it sell for a price? If it sells for a price it shows clearly that the Toronto Railway Company is getting a benefit from the city on which it should pay. If it will not, then they are on a fair basis.

Mr. BICKNELL: I may say with the Board's permission I propose to hand in a memorandum showing the payments that have been made from time to time to the city, and the liabilities that the Company is under to the city, if it is considered to be material at all; but the figures I have given you are approximate only, I put them in round numbers. A million and a half is the amount which has been already paid, and in round numbers $200,000 a year is paid to the city. (a)

The CHAIRMAN: Yes, I think it would be useful to put in that statement. You say the capital of the Company is six millions paid up?

Mr. BICKNELL: Yes.

The CHAIRMAN: What was the purchase price?

Mr. BICKNELL: The purchase price of the old rails, the old horse cars and the horses was about a million three hundred thousand.

The CHAIRMAN: And the subsequent expenditure in plant and extension?

Mr. BICKNELL: I don't know what the subsequent expenditure was in converting the property from the horse system to an electric system.

The CHAIRMAN: Perhaps you can give us that.

Mr. BICKNELL: I may be able to get that.

Mr. FLEMING: That would be very useful information for the public if it could be secured, because there is a very general impression that between the price that was paid to the City and the amount that was spent upon changing the road there are several millions of dollars that have gone into some person's pockets, perhaps as a profit on the road.

Mr. W. M. DOUGLASS: I represent the Canadian Electric Association, which comprises electric light companies throughout the province, in most towns and villages from Rainy River to Ottawa One or two of these Companies, although they belong to the Association, are separately represented here or represented by Mr. Robinson. It may be, however, that in the main they will take the same stand in regard to this question as the various corporations referred to by Mr Robinson, except the railway companies, with which he has already dealt, and I fully concur with what he has said to the Board.

The CHAIRMAN: Does the Association represent the electric lighting companies?

Mr DOUGLASS: The electric light companies.

The CHAIRMAN: As well as the manufacturers of electric plant?

Mr. DOUGLASS: No, the Association does not represent the manufacturers of electric plant.

The CHAIRMAN: It represents the manufacturers of electricity?

Mr. DOUGLASS: The manufacturers of electricity, those who have established plants in the different towns and villages. Of course, when the time comes, I shall contend that, probably, these companies in the small towns and villages stand on an entirely different footing from the companies which have been established in the large centres. I only mention that now as showing another of the many difficulties which beset this question, and which affords every reason for allowing further time so that these companies can confer together, and, if possible, in addressing this Board, submit something tangible and not simply apply ourselves to generalities. Up to the present time, of course, the gentlemen who have addressed the Board have dealt really with local affairs, that is, Mr.

(a) See No. 12 in Appendix A.

Martin with the gas company of Hamilton, and Mr. Bicknell with the railway company of Toronto. That can be taken by the Board as showing a very difficult problem to be dealt with; but the companies I represent will probably place their objections to an alteration of the taxation, or their reasons for establishing a different basis of taxation, all upon the same ground; and I will concur so far with the request made by Mr. Robinson that time be given to consider this question. I may say also, that owing to the short time the Executive Committee of the Association has not had an opportunity of consulting with individual members of the Association, and that it would be advisable to do so.

GEORGE J. BRYAN: I represent the body of citizens; I am not here as the representative of any corporation. The remarks that I shall make will be those that come from one who has given considerable study to this question.

The CHAIRMAN: I received an argument on the general question signed by a gentleman of your name; I just wish to know if you are the author of it?

Mr. BRYAN: Yes, sir. The argument submitted by the representative of the street railway company seems to be a most specious one.

The CHAIRMAN: You propose to deal with the question from a general point of view?

Mr. BRYAN: Yes. I will treat of the franchise question.

The CHAIRMAN: Perhaps it would be more convenient if you will wait till these gentlemen, who are here representing particular interests, are heard.

Mr. BRYAN: I am quite prepared to accept your decision.

The CHAIRMAN: (After consulting with the Board.) As there is no one else desiring to speak, we shall be glad to hear you.

Mr. BRYAN: I take it, then, that there are no further representatives of these companies that desire to speak. I was going to refer at the outset to the argument presented by the representative of the Street Railway Company as to the right of municipal authorities to impose a tax upon their concern higher than the law intended should be imposed as to the method of taxation imposed when the arrangement was first entered into with the city. I have just spoken to Mr. Fullerton, and that question will be dealt with by him a little later.

The CHAIRMAN: There is no doubt of the power of the Legislature to do that very thing; the question is as to fairness and justice.

Mr. BRYAN: With respect to the mode af assessing companies operating public franchises, such as street railways, waterworks, gas and electric light, heat or power, telephones, telegraphs and railways in general, there is upon the part of the community good and just cause for complaint; and this Assessment Commission, if it were called for no other purpose than the consideration of this question alone, could hardly deliberate upon, considering the wrongs involved, a more important matter for adjustment. These public franchises, as referred to are media for the conveyance of public benefits, and are, in their very nature natural monopolies, or special privileges conferred by the public upon individuals, privileges in which the community in general (unless publicly owned) cannot share. The owners of such franchises, unlike individuals engaged in industrial pursuits, are not under the disadvantages of having to meet competition in the open market over charges for service, a process to which all unprivileged occupations are subject, but are specially empowered to force payment of a toll in addition to the pay their services would command if they were under the influence of free competition. That the owners of special privileges receive from the public a pecuniary benefit, in which other members of the community do not participate, is certain. Franchises proper are those rights which the state gives to corporations to monopolize public places. Street car companies, for example, are given exclusive rights to lay rails in the highways and operate street cars upon them. So with the franchises of gas companies, electric light companies, telephones, and the like; they consist, as is obvious, of similar privileges to use of unimproved land or rights of way. The franchise of a telegraph company is of the same nature. It is nothing but an exclusive privilege to extend its wires overland. "Take one of our great railway lines for example," says Thomas G. Shearman, a noted authority on taxation, "add up either the market value or the cost of replacing its rails, equipment, building improvements and chattels of every kind, whether movable or immovable, and at a most liberal valuation. The total will not come within millions of its nominal debt, and will never touch its capital stock. What gives value to the enormous amount of stock? The exclusive

privilege of using a narrow strip of barren land, five hundred, a thousand or two thousand miles long, unbroken by highways or any other rights over land, whether public or private." Thus the value of stock and bonds of corporate monopolies consists very largely in the land which the several corporations cover by their buildings, plant and general equipment, to the exclusion of all other persons. The plant, equipment and so forth are produced and operated by the corporations alluded to for the public service, and whatever the corporations derive for that service they earn. But by reason of their monopoly or franchise of the highway, they can and do get more than they earn, and this is the value or their franchise. The value of these various franchises, therefore, is something which the state enables their owners to extort from the public, and which is done to an extent few in the community realize. And, further, as is well understood by those who have given this matter any study whatever, the source of large fortunes is largely, if not altogether, the possession of a monopoly privilege under which the community in general suffer most grievous wrongs. In the granting of special privileges—in the nature of those described—the legislature, evidently, has not taken full cognizance of their character or the extent of their operations. This is evident, by the carelessness, or some stronger word, of the legislation dealing with this question. Aside from the wisdom or otherwise of the policy followed in disposing so carelessly of valuable privileges, the question uppermost at the present moment is that of an equitable mode of assessment under existing circumstances. As the law exists in this Province, see sec. 28 of the Assessment Act, the personal property of corporations operating franchises, requiring the investment of the whole or principal part of their means in real estate, is exempt from assessment, but the shareholders are liable to be assessed on the income derived from such. But, in addition to this exemption there is a far greater and more important exemption accorded, which the law in no way records, but which, nevertheless, is an exemption that should be wiped out completely. The exemption referred to is the franchise monopoly of corporations. In what other ways these corporations have managed to unload taxes imposed on them under the law on to the shoulders of other members of the community the Assessment Commissioner of Toronto and others will clearly show. Although it will be shown to this Commission by the evidence of the assessors, how, under a technicality, franchise corporations have avoided a goodly part of the taxes imposed on them. It will not be shown, however, how assessors can possibly appraise fairly the value of the plant and equipment owned by them, or the difficulties involved in making such appraisement, including the expense and labour necessary to the undertaking. The difficulties met with by the assessors in appraising the value of plants and equipments of companies are the same as, if not greater than, those met with when trying to appraise merchandise—stocks of goods. For many years and right up to the time when these corporations have availed themselves of the "scrap iron" decision there was always litigation in the courts over the assessment imposed, and invariably the courts decided against the municipal authorities. This fact will not be questioned. And so with the tax imposed on the income of the stocks and shares held in these corporations. There never was at any time in the history of corporations a just and equitable assessment levied. Under the law it is impossible. Before an equitable plan of taxation can be enforced, whether applied to monopoly privileges or competitive industries, a clear distinction must be drawn as to the nature of the thing or things to be taxed. Already it may be mentioned a movement has started in various quarters, notably in New York State and Missouri, wherein the law has been amended in this very particular. The feature of the legislation referred to, and particularly of the Ford Bill, by which name the New York State Act is called, is its recognition for taxing purposes of the value of franchises in public highways as real estate. This measure includes the public franchises of railways, telegraphs, telephones, gas, steam, pipe lines and the like within the definition of "land," and provides for the taxation accordingly, in proportion to value. These values are to be arrived at by deducting the value of the plants from the total market value of the properties. The franchises it enumerates are essentially land franchises, and their values land values. The Ford Bill, though not perfect, is an advance in the right direction. Because of the peculiar character of monopoly franchises, there is all the more reason why the State should adopt a policy towards them differing from the policy it employs towards competitive concerns. As must now be evident, the value of franchises is created and maintained by the public, therefore belongs to the public. There can be no denial of the

fact—as the assessment law at present applies—that monopoly franchises do not contribute their fair share of taxation towards the expense fund of the community, and it is questionable even if the present assessment law were strictly enforced against them whether then they could be compelled to do so. The present assessment law has been, and as it applies elsewhere, proven a failure. Experience shows this most clearly. In view of this fact, I submit that the Legislature should materially alter the law in this respect, and invoke legislation, basing the assessment upon the principle that what belongs to the individual and corporation, which has the element of labour in it, should not be taxable, but that which is created and maintained by the community—the value of special privileges—should be taxed to the fullest extent for the benefit of all. Therefore I propose to this Commission, in respect to monopoly franchises, that in lieu of the present plan of taxation, a tax be imposed solely on the value of the franchise, which can be more easily and equitably arrived at than any other plan that can be suggested. Under the plan I propose, franchises would be assessed at their full value, and upon every dollar which corporate franchises are worth, because the franchise of exclusive use is all that gives any land its commercial value. "No system of taxation on personal property," says Shearman, "is needed in the smallest degree for this purpose. It is, indeed, only a hindrance to it, and a convenient means of evading taxation; for the assessor, not being allowed to compute this value, in estimating the value of land, has to take his chances of finding it under the name of personal property." Briefly then, to explain, all that would be necessary, in order to arrive at this just source of taxation—a proper source for municipal revenue and provincial, if it were deemed wise also—would be to find the value at which the respective franchises were capitalized, and deduct therefrom the value of all property, including plant, equipment, improvements and buildings. In other words, the total cost for which such can be replaced, the sum remaining to be regarded as the franchise value. This tax on the franchise value does not, however, exclude from taxation the value of the land occupied by buildings or other structures. The advantage of applying a sole tax on franchise values is, first, its simplicity; second, the equity of it; third, the greatly increased revenue that would be derived. There could be no sound objection to the application of this principle, because, the value of public benefit to the individual or corporation is not measurable by the value of his or their possessions. On the contrary, the value of public benefits is determined by the advantages—special privileges—which one or more persons enjoy over others. In this connection, I would mention that one of the recommendations of the Commissioners appointed by the Illinois State Assembly in their report for 1892 was: That the General Assembly shall have power to tax persons or corporations owning or using franchises. The words of the section referred to (page 398, eighth biennial report of the Bureau of Labour Statistics: subject, Taxation, part I) are: The General Assembly shall provide such revenue as may be needful, by levying a tax, by valuation, so that every person or corporation shall pay a tax in proportion to the value of his, her or its land, irrespective of its improvements, such value to be ascertained by some person or persons to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise. In closing, I wish to draw attention to the assessment that was levied upon the corporations of Toronto. In 1899 the Assessment Department of Toronto levied a tax upon the Bell Telephone Company of $638,649. By the Court of Revision the amount was reduced to $102,550; see the difference! Here is clearly an injustice. In the case of the Incandescent Light Company the total value assessed for 1899 was $250,000; under the revised Assessment of the Court the amount is $150,500.

The CHAIRMAN: You are arguing now I suppose against the principle of law which gave rise to the scrap-iron decision, as it is called?

Mr. BRYAN: I also include in that the difficulty of the mode of arriving at these things at all, whether it was scrap-iron legislation or not. In the case of The Toronto Electric Light Company the assessment of 1899 was placed at $350,000; as revised by the Court $170,000—another injustice.

The CHAIRMAN: What is the inference you draw from that?

Mr. BRYAN: The inference I draw from this is that it is utterly impossible for any body of assessors to equitably appraise the value of the plant, equipment, buildings, &c., and superstructures of corporations. The facts adduced before this Commission of this morning, and that will be adduced, will show the great difference between the actual

value of these corporations and the amount at which they are assessed. My argument therefore meant that in lieu of imposing taxation in the manner in which it has in the past been levied, that it should be levied solely on the franchise value, which would be undoubtedly a juster form of taxation and to the community would be a great advantage, besides affording to the assessors a better and easier method of arriving at a just valuation by which Companies should be assessed.

Mr. WILKIE: You take the market value of the shares of the Company to arrive at the amount?

Mr. BRYAN: Mr. Bicknell has said that the total amount of The Toronto Street Railway was nine millions.

The CHAIRMAN: Six millions.

Mr. BRYAN: There were three millions of bonds.

Mr. WILKIE: You add the bonded indebtedness?

Mr. BRYAN: Yes, add the whole thing. They pay a dividend on the whole thing. The people of Toronto have contributed that, have made it possible, and the Company pay a dividend out of that.

Mr. WILKIE: They don't pay a dividend out of their bonds?

Mr. BRYAN: They pay interest on them. Can you explain any difference between interest and dividend? However, I would subtract anyway between the value of the plant and equipment; I would strike that from the market value. We can with perfect ease almost in the case of any company operating in the Province of Ontario arrive at their capitalization, and by doing so, and deducting the value of those things, it will be not only a great advantage to the Companies, I should think, but certainly a great advantage to the citizens.

Mr. FLEMING: Will you allow me to make a correction there? It would scarcely be fair to draw deductions as to the great reduction between the actual value of the Bell Telephone Company's plant and the assessment made in the year 1899. In that year the Assessment Department secured the services of what they thought to be a first-class competent man for the purpose of making assessment of those companies. After his work was done and after the assessment had been made and when we went to secure other evidence to back up his work, on the appeal put in by the different companies, we found that the gentleman whose services we had secured simply knew nothing about his business, and that he had over-valued practically everything he had touched. Of course that does not affect the fact that we think there is a great difference between what they are assessed for and what they should be assessed for, but it is not fair to draw deductions from that special year.

Mr. JUSTICE MACMAHON: It shows the folly of employing a specialist.

Mr. FLEMING: Well, a specialist who is not an honourable man, as that was the case.

Mr. JUSTICE MACMAHON: A specialist who has no special knowledge.

Mr. FLEMING: Well, that is exactly the position. The man was sent to us and recommended to us as a first class electrical engineer, and we came to the conclusion that he was simply a draughtsman and knew nothing about the work undertaken to do.

Mr. HENRY O'BRIEN: With regard to the deductions of the Toronto Incandescent and Toronto Electric Light companies, those deductions were not based on the scrap iron decision at all, because we did not take advantage of that. The matter was settled at a reasonable and amicable amount and the amounts which it now carries were settled as a fair amount without reference to the scrap iron basis. As regards the Incandescent reduction, there was a very large mistake made by the Department in one of their calculations, which struck off a very considerable sum of money; you will remember that, Mr. Fleming?

Mr. FLEMING: Yes, I remember it all; that is why I made this explanation.

Mr. O'BRIEN: So it was not based on the scrap iron decision at all.

Mr. FULLERTON: It would be hardly fair to put it that way I think. Mr. O'Brien was fair with us and those companies stated the sum they were willing to give. We knew it was more than we could get, and took it, but we did not think it was all we should get.

Mr. RICHARD J. HODGE: The franchise value of any corporation stands as the value of the municipal grant. It represents the value of the privilege which is bestowed upon that particular corporation or syndicate by the community who has the power and

who does grant the franchise. Now taxes should be levied on that first, because it is a tangible value exactly similar in character to an ordinary land value. The proceeding at present for taxation upon the ordinary principle is this: that it takes an ordinary individual owning a piece of realty, and he is taxed upon the value of his land, that is, upon the site upon which he operates, and also upon the building erected upon that site, As far as the taxation or companies is concerned, the taxation of the franchise will be similar in character to the taxation upon the location where I may build my house. It is essentially a land value. The non-taxing of franchises as it is to-day—in many cases consisting of enormous value, especially in large cities like Toronto—constitutes the great object to be attained by individuals and syndicates seeking franchises. They go before municipal and legislative bodies and seek out a value for which in many cases they pay nothing; they are prepared to use, and in many cases have been charged with using, unfair means to obtain the special franchise. We can understand that when there is something of value to be obtained at very much less than its value, it will at once constitute an object of desire which men will do a great deal to obtain. This fact that franchises can be obtained, constitutes a great temptation to bribery on the part of those desiring franchises and also corruption of legislative bodies. If this value of franchise is taxed, the nearer you get to taking the entire value of the franchise in taxation, to that extent you reduce the bribery on one hand and corruption on the other. The franchise in the case of companies using the public highways and possessing the power of expropriation of realty, that is, the rights of eminent domain, represent the contribution of the public to that company. This contribution of the public enables that company to obtain wealth: therefore the company receiving that contribution have a perfect right to the extent of the value of that contribution to contribute to the expenses of the public. Taxes on public corporations should not be levied on the value of their rolling stock or plant, for this reason: Take the city of Toronto; the city desires the street railway company to use the very best possible plan that it is possible to procure; they desire them to retire all old rolling stock and put new rolling stock upon their lines; and when the company does that the city of Toronto says, "We will turn around and tax you for doing it." Now, the object of a grant by a community to a corporation, the implied obligation of the grantee to the grantor, is that the grantee shall use the grant to the very best of their ability, that is, they shall exploit the entire resources of the grant. The community on the other hand, instead of taxing them on the value of their grant, turns round and taxes them upon the uses that they make of the grant, which has a restraining effect on the corporation. I therefore submit that in the interests of the public service in their relation with these corporations, all taxes should be taken off the plant and rolling stock and rails and so on of these corporations and should be levied entirely on the value of their grant, which is the value of their franchise.

The CHAIRMAN: Suppose that thirty years ago a franchise was granted by the city of Toronto to a gas company for a certain sum of money, but by the growth of the city the value of it has increased a hundred or a thousand fold; how would you deal with that?

Mr. HODGE: The position is simply this: Has my father a right to grant away my property?

The CHAIRMAN: No.

Mr. HODGE: The value of the franchise to-day is the property of the people of to-day, not the people of thirty years ago. The people of thirty years ago had no right to grant away property of the people of to day.

The CHAIRMAN: How would you apply the assessment to the case I put?

Mr. HODGE: I would apply it on the value of the grant to-day.

The CHAIRMAN: In fact you would increase the assessment every year?

Mr. HODGE: According to the increased value of the grant.

The CHAIRMAN: As the value of the franchise increases?

Mr. HODGE: Yes, the value of the increased grant, the measure of increase of taxation.

Mr. WILKIE: How do you arrive at the value of the franchise?

Mr. HODGE: There are several ways of arriving at the value of the grant. First of all is the listed price of stock on the stock exchanges. From the value of that stock should be deducted the value of the wealth of the company—that is, the rolling stock

and rails and buildings—and to that should be added the bonded indebtedness of the company. This should form the basis of assessment.

Mr. Justice MacMahon: The difference between the two?

Mr Honck: The difference between the two. The next way of arriving at the value of a grant is to capitalize all the net earnings of the company upon the current rate of interest at that time. Now, the general current rate of interest to-day on investments is five per cent.; therefore, if you capitalize the Toronto Street Railway Company on a five per cent. basis and deduct from that the value of their wealth—that is, buildings, rolling stock and rails—and add to that the value of their bonds, you arrive at the valuation of the franchise for the purposes of assessment.

Mr A. E Ames: Mr. Chairman and Gentlemen of the Commission: In the absence of the President of the Board of Trade it has become my duty to read to you a memorial which has been adopted by the Council of the Board of Trade. I am not controversially equipped, and if you will allow me I will just go through the matter which I have, from which has been eliminated all irrelevant matter.

[Mr. Ames read the documents in part, No. 13 of Appendix A.]

Arthur J. Roebuck: I would like to say a few words about some of the franchises that have come under my special notice. Some gentlemen here, arguing from the side of the companies, have made out a case that they have got nothing more from the people than the people have given to them. Now, if you will take, for instance, the granting of this franchise to the Canadian Pacific Railway, that amounted to twenty-five million dollars in cash and twenty-five million acres of land, which, valued at the low rate of three dollars an acre, are worth seventy-five million dollars, or a total sum of $135,000,000 for building the road, which, according to their own estimate, was to cost about $95,500,000. Now, I say if these companies have not got anything more from the people than the people gave them, I don't know what they did get. There is another franchise that has come to my mind; it is the agreement made between the Sault Ste. Marie Development Company and that corporation. In return for this company building some alkali works, some chemical and pulp mills, of constructing a power canal and machine shop, of employing 2,000 men and spending a million dollars, and of making the terminus of the Algoma Central Railway in the town of Sault Ste Marie, the corporation grants free of charge the exclusive right of running street cars in the town of Sault Ste. Marie, and all that shall be added thereto for the next twenty six years, provided the company runs a car each way at least once an hour and charges no more than five cents within the present limits of the town; and at the end of this time, if the corporation does not feel inclined to continue the contract upon the same terms, they shall buy it back from the company at a valuation, to be determined by arbitration, and one of the things to be considered is the earning powers of the road at the time, or in other words, if the company were making $40,000 a year out of the people of Sault Ste. Marie it would take hundreds and hundreds of thousands to buy them out. Not only do they give them the control of the streets of Sault Ste. Marie for 26 years, but agree to pay them a capitalized value at that rate at the end of their franchise.

The Chairman: Unless there is someone here who is very anxious to address us briefly instead of coming again to-morrow, the Commission would now adjourn, but before adjourning we desire to say to Mr. Robinson that we will let him know to-morrow whether it will be possible for us to give you another day, but in the meantime we would like you to say as nearly as you can what length of time you would require for the purpose of communicating with those companies and enabling them to have a conference.

Mr Christopher Robinson, Q C: I have communicated with the gentlemen who have instructed me, and, so far as I can gather from them, six weeks would be the shortest time in which they could hope to do anything effectual, and I think that may be taken as the best information I can get now. At the same time I would say myself that the impression upon my mind is just this: If we are now going to attempt to reconstitute our whole system of assessment in view of the different new industries which have arisen and the new subjects of taxation which have come into existence, to make a new starting point and establish a new system which we hope will be permanent, I humbly think that cannot be done in much less than as many months, because I believe it would be quite possible that when we come before the Commission they will require some further information in order to enable them to deliberate, possibly. I do not mean

six months' continuous sittings, but looking back on what I recollect of similar commissions in England, and the course they have taken, my own strong impression is that if the undertaking is as large as that I have suggested, and will give us a new system of taxation, which we hope will be permanent for the next thirty or forty years, as the present one has been in existence in substance for that time, I do not think that we shall possibly be able to complete in less than six months; but they tell me that six weeks would be the shortest time.

The CHAIRMAN: I think you spoke of three weeks when you were on your feet.

Mr. ROBINSON: Perhaps I did.

The CHAIRMAN: What difficulty is there in these companies conferring with each other in less time than what you have given?

Mr. ROBINSON: I have indicated a shorter way than communicating with each other; I have suggested that I think nothing would be shorter than to get someone to go around among those companies, but I do not really think that less than six weeks will be possible from what I know of those companies.

Mr. JUSTICE MACMAHON: It would be very unfortunate if this commission were not able to present to the Legislature all the information that was derivable from every source, because their idea is that when the report goes in, as I understand it, with such amendments as the commission may choose to suggest, that it will be of such an exhaustive character that the Legislature will act upon that unless under very exceptional circumstances, when they might, and the committee might, require to hear some special interest; but speaking for myself, to take this up and leave it now when a portion of the evidence might be given, statements coming from the various sources, I think it would be impossible under those circumstances to get a report ready and get the amendments prepared in time for the Legislature— and that is the object for which we are appointed. These various companies might present their cases as far as they could go to-morrow and next day, and an adjournment for three or four weeks might be had, an adjournment of this particular subject, until after the other questions were fully discussed, and if it was absolutely essential then to adjourn it for a further week or ten days that might be assented to.

Mr. ROBINSON: I have just as strong a feeling; I think we all agree in that—we would very much rather say nothing or not begin the discussion unless we are prepared to do what really can be done by thorough good consideration. It is for the commissioners of course to say what they desire.

The CHAIRMAN: I do not see myself the difficulty that stands in the way of those companies considering their relation to the assessment law in a much shorter time than you have indicated, and being prepared to come here and maintain their views, whatever they might be. They are in no different position from a multitude of other interests; there are hundreds of other interests which might make the same plea.

Mr. ROBINSON: I can say nothing except that I have discussed the matter with these gentlemen that represent these companies, and to my mind they make it very clear that nothing can be done probably with effect in a shorter time. They will have to consult each of these companies to see how far it is possible for them all to agree upon the recommendation of any one scheme; and you know perfectly well that the position of each company may differ. One company may be able to go a certain distance in the approval of one scheme, but not to go further. I doubt very much whether in the end we shall be able to get them to agree on any one scheme throughout, but it would be a great point if we could get them to agree on certain principles.

The CHAIRMAN: Then there is no difficulty in each company sending a representative here to represent the views of that particular company, if they differ; that is what the other multitudinous interests have to do.

Mr. JUSTICE MACMAHON; Some of them we have heard to-day.

Mr. ROBINSON: In regard to steam railways I see no great difficulty. Their interests stand in a very different position. I only know because I have spoken to two or three of them and they assure me a great deal of consideration will have to be given, and probably a good deal of difficulty.

The CHAIRMAN: We will be prepared to-morrow morning to say definitely what we think ought to be done in this particular matter.

Mr. Robinson: I may just say that I have since spoken again to the gentlemen, and I find them rather stronger in the view that I have expressed than I possibly have expressed it. They say they are representing almost incalculable capital—probably hundreds of millions, and they do not feel that justice will be done unless they have such time as will be necessary either to discuss thoroughly or not to discuss at present.

The Chairman: The magnitude of the interests cannot be doubted, but what that can have to do with the power of considering their relation to the subject of the assessment is what I do not perceive at present.

Mr. Robinson: I may refer to your Lordship's personal experience. You know that the magnitude of the interests at stake in a law suit invariably is the measure of its length, and it always will be so in any great commercial matter—the magnitude of the interests at stake is largely the measure of its duration.

Mr. Justice MacMahon: That is not the view of one very learned judge, who said that when there was nothing to fight about it always took the most time. (Laughter).

Adjournment at 4 15 till 10.30 to morrow.

SEVENTH DAY—TUESDAY, NOVEMBER 20TH, 1900.

Commission resumed at 10.30 a. m. Present:—The same Commissioners.

The Chairman: Mr. Robinson, we have considered your suggestion that further time ought to be given to the companies which you represent, to be heard before the commission; and while we think that the original public announcement that was made gave everybody reasonable time to prepare to be here before us and present their views, we think that under the circumstances we ought to grant your application to the extent of giving you three weeks to enable the companies to agree upon some policy on the subject, but we would not think it reasonable to extend the time beyond that.

Mr. Robinson: Under the circumstances it would be better for me to consult my clients who are here, because it would not be reasonable or fair towards the Commission to accept three weeks, if it is not going to accomplish its purpose, and if not, we will let the Commission know within a reasonable time.

The Chairman: One consideration which presents itself very strongly to my mind is this, that the companies could easily appear here in detail if necessary and present their respective views.

Mr. Robinson: It is not the presenting them, it is the formulating them.

The Chairman: Surely they have had ample time to do that?

Mr. Robinson: When your Lordship speaks of ample time, the only way a company in the country will formulate views or come to a conclusion is by calling their directors together, having several meetings and discussing the thing very carefully and coming to some conclusion. I venture to say that the representatives of the companies here now, if brought together, would say they had not considered the matter, they had not consulted their boards, and were unwilling to express any opinion. If a manager were to come to me and say, "I am called before this commission; what shall I say, what shall I tell them?" I would be inclined to say, "I think you had better consider the matter very carefully and consult the board before you say anything."

The Chairman: At all events that is the best conclusion we can come to.

Mr. Robinson: I am not finding fault withtheconclusion of the Commission; I am only explaining the companies' position.

Mr. Justice MacMahon: I imagine that most of the companies understand their position?

Mr. Robinson: It may be so. I am only presenting my view of the position. If the companies suggest any scheme that they think should be adopted, as the one which would meet their views, and if the Commission would recommend that scheme to the Legislature, it would be be almost impossible then for the companies to go before the Legislature and raise any objection to the enactment; and therefore unless they are able to make up their minds as to what would satisfy them, what they think the best scheme in

their interests, of and even in the interests of the public generally, I think they better say nothing. I think they had far better leave themselves free to come to a conclusion when there will be time to do it and take the chances. I quite feel the force of what Mr. Justice MacMahon suggested as to the course which the Legislature may possibly take. All I can say is that I think the course is too dangerous for the companies to take.

The CHAIRMAN: We will appoint any day or more than one day, if necessary, within three weeks, which ever would be convenient for your clients and yourself.

Mr. ROBINSON: Very good.

Mr. MACKELCAN: In the meantime I would like to say a few words this morning on the general question, and perhaps representatives of the railway companies would like to hear what the views of municipalities are on some of these questions.

The CHAIRMAN: We might wait a few minutes, Mr. MacKelcan; the companies are consulting.

Mr. STEPHEN GRANT (London): Your Honour, as I am going home this morning I would like to make a few remarks as to incorporated companies, and to state that the Gas Company in London accepted assessment as a going concern and raised no trouble; that the electric light company of London accepted assessment as a going concern and raised no trouble. Of course they are keeping their eyes open to see the result of this scrap iron assessment, which we consider is unfair to the other ratepayers of London, and of course if it continues to be scrap they will be looking for scrap, but it will be a very great loss. One word in regard to personal property, and that is, I would like your honourable body to bear in mind that one-third (*a*) of the assessment in the city of London is on personal property and income, therefore the city of London must be acting uprightly in the matter, and that any conclusion you might come to as to a different system of taxing personal property and incomes would be detrimental to the city of London if it did not yield one-third of its income.

Mr. WILKIE: Can you tell what the amount is, income on the personal property?

Mr. GRANT: The total assessment of the city of London is eighteen millions. On this amount we raise, roughly speaking, about $450 000. Of course the personal property and income would contribute pretty nearly $150,000.

Mr. WILKIE: Can you tell how much is income?

Mr. GRANT: Personal property would be about three times as much as income. I am speaking from memory. I will send a statement if you think it is necessary.

The CHAIRMAN. It would be useful to use if you send a statement.

Mr. GRANT: I would be very pleased to have the privilege of sending a statement and sending a little essay on other subjects here if you will receive it. (*b*)

The CHAIRMAN: We shall be glad to. You succeed in assessing a very much larger proportion of personal property than is done in other places.

Mr. GRANT: I deal with all the parties for personal property and income myself, and I do it under the direction of the statute as it now stands.

The CHAIRMAN: You make the assessment yourself?

Mr. GRANT: Yes, sir, on all the personal property and income in London. I leave the real estate to the assessors principally. I do the principal wards that have the personal property and real estate myself, and the assessors do the outlying wards. Of course our city being small it can be conducted in that way. It would not be possible for other Commissioners of course in large places to do that.

The CHAIRMAN: What is your idea of the proportion of personal taxation which escapes in London?

Mr. GRANT: I think that if personal property and taxable income were properly assessed it would really be five times greater than the real estate, that is including bank stocks and savings bank deposits and all that kind of thing.

The CHAIRMAN: That is, if everything which by law ought to be assessed were assessed?

Mr. GRANT: Were assessed and could be assessed.

The CHAIRMAN: It would be five times as much as the real estate?

(*a*) Corrected subsequently by Mr. Grant to "one-seventh." See No. 14 in Appendix A.

(*b*) See No. 14 in Appendix A.

Mr. GRANT: If it could be assessed as directed by the statute. That is, there is as much personal property and money in London as would reduce the taxation of London to eight or nine mills on the dollar, that is, under the Act as it stands to-day.

Mr. MACPHERSON: But the Act has never been enforced?

Mr. GRANT: It has been enforced except as regards money, that is, reasonably enforced. There are no persons in the City of London, as the Court of Revision will show, that are dissatisfied.

Mr. MACPHERSON: They would be very much dissatisfied if they were taxed on their money in the banks.

Mr. GRANT: Except everybody was taxed. If everybody was taxed then it would not hurt anybody.

Mr. WILKIE: Suppose a person has a deposit in a loan company drawing three per cent. interest and depending on that for a living, what would they do if you raised your taxation to 2½ cents in the dollar? What would they live on?

Mr. GRANT: My idea, Mr. Wilkie, is this: That by taxing everything you don't want more than half a cent. You might turn it the other way if you wish, and say that a man that has $10,000 invested in a store which is idle all year, he owes $5,000 on it and the party that has the $5,000 mortgage on it begins to touch him up, he has to pay $200 a year for the store, $300 on the $5,000 he has borrowed, and that is $500, and that is a total loss.

Mr. JUSTICE MACMAHON: Would not the proper way be to assess him on his income on the deposit in the bank or loan company or Post Office? Would not that be the fairest way?

Mr. GRANT: If it should be decided.

Mr. WILKIE: But Mr. MacKelcan started out by saying that taxation should be levied in proportion to the benefit accruing.

Mr. GRANT: Well, everyone has a benefit.

Mr. WILKIE: What benefit is there to a depositor in a loan company?

Mr. GRANT: He has the benefit of sending his family to school, they go to the park and sit down there, walk on the sidewalks, enjoy lighted streets, and go to the hospital if he is sick.

Mr. WILKIE: What benefit does he get more than anybody else?

Mr. GRANT: We don't want him to get any greater benefit, or injure anybody else. The thing is to get everything, and then you only want a mere bagatelle.

The CHAIRMAN: I wanted to get your idea of the amount of personal property which by law ought to be assessed, but which escapes.

Mr. GRANT: I know one loan company in the City of London that if it was assessed it would reduce the rate from 2 to 1 at once; but unless it can be done properly it should not be done at all.

Mr. WILKIE: And that could be done without injury to the loan company?

Mr. GRANT: Yes, I want no injury to anybody. It is a strange thing to assess a man on what he owes instead of assessing him on what he owns. There is this two per cent. where the trouble comes in. There is no two per cent. with an equal assessment.

Mr. WILKIE: You don't mean on what he owes; he is exempt on what he owes.

Mr. GRANT: In real estate a man is assessed for what he owes.

The CHAIRMAN: In what way?

Mr. GRANT: Because the property is assessed at its face value; although a man having $10,000 invested in real estate, if he owes $5000 on it, the assessor assesses him for $10,000.

The CHAIRMAN: Assesses the mortgage you mean?

Mr. GRANT: Yes, I don't think the Assessment Act ever contemplated that a man should take $100,000 out of his business and never be any more heard from and sell his business to a man that was only worth $10,000 and the municipality has to take the man for the $10,000 and lose the man with $100,000. That is the trouble we have got into. If the Assessment Act had been acted upon there would have been no such rates as we have, and the people would be accustomed to pay a fair share of taxes; but as soon as you strike a man of wealth, a man of great power in the land, a man is satisfied to pay taxes when he is worth $5,000 or $10,000 or $50,000, but when he gets to be $100,000 it seems he is not thankful to either God or man; he wants other men to pay all the taxes.

The CHAIRMAN : You were going to give us a statement, Mr. Fleming ; I suppose you have not prepared it ?

Mr. FLEMING ; No, we are getting it.

Mr. GRANT : When I made the statement that personal property and money would be five times as much as that of real estate, I meant the personal property that is on sight as well as the real estate that is on sight—all the money of course that is reported to be in the banks and the capital stock of banks.

Mr. FLEMING : So that to accomplish that you would have to change the law so that you could assess everything that you could see ?

Mr. GRANT : Yes.

The CHAIRMAN : I am not speaking of changing the law ; take the law as it stands.

Mr. GRANT : There is another very great difficulty. I don't know whether it is my business or not, that a person having $10,000 invested in personal property is liable for assessment on that, and another man that has little or nothing invested in personal property next door to him, that owes $40,000 or $50,000, may undersell this cash man because he is really regardless of consequences, and he may live hfgher and spend more money for his household expenses.

Mr. MACPHERSON : His creditors have to look after that ; that is their business.

Mr. GRANT : Sometimes they don't look after that in time.

Mr. ALAN C. THOMPSON : I would like to make some remarks. There has been some reference yesterday to the taxation of personal property of companies. It seems to me from the arguments that have already been presented, the taxation of personal property under any consideration is a flat failure, and I do not think it would be fair to single out companies for the taxation of personal property any more than any other class of citizens ; but there is one part of the property of companies which is legitimately subject to taxation, and that is the value of the franchise. The value of the franchise is the value of the use of certain real estate ; it is a land value, as was pointed out a few days ago. Now, in the case of railways, that is taxed, but taxed very lightly ; it is taxed on the scrap iron principle ; they take a little piece of land here and a little piece of land there and another there and assess it on the value of the adjoining farm lands, although it is worthless for farm land purposes, but for the purpose of railway companies it is enormously valuable. Now, take the strip of land between Toronto and Hamilton ; it is some 66 feet wide, 45 miles long; that represents a total acreage of 320 acres ; put it at forty dollars an acre—which is above the average farm lands of Ontario according to the last report of municipal statistics, which is I believe $27, but if they are near the front we will call it $40—that represents $12 000 in land. Now imagine—the value of the land between Toronto and Hamilton, over which there is enormous traffic, is assessed on a basis of $12,000. Now I venture to say that a million dollars would be nearer the value of that land. There is another thing in connection with the claim of monopoly corporations to evade the taxation. There is some 320 acres, if you leave out the sidings, just simply take the right of way. The companies have claimed that they get no benefit from taxation expended in the city of Toronto, for example. Now what we claim is this : That while they may get no direct benefit for the police and fire protection, they get most important benefit in the same way that vacant land does. The value of a vacant lot is not the value of the land on it ; it is the value of the possibilities of doing business or using that land. The same with a franchise value and those different things that depend on the principle of people collecting in a spot and the capabilities of doing business. Not only is it not true they get no benefit from those public services, but actually their very existence depends on those public services. It is possible for men to carry on business in a small way without electric light or gas, but it is impossible to have these things unless you have a population sufficiently large to make it pay ; consequently, instead of being not benefited by these things, they are the people who are chiefly benefited—indirectly, of course. Now then, another argument is used against paying the tax on their franchise, in the case of the street railway ; they say, " We paid for our franchise, and we are not entitled to pay anything ;" and yet if a man buys land from the city of Toronto he not only pays purchase money, but he pay taxes on the rental value. If he leases land from Toronto he pays not only for the lease but he pays for the improvement on that land. This is unjust, but as the law now stands, if you are going to tax improvements on land value the only way to tax corporations is to tax them on their full capital value as shown on

the open market; and to show that these things are properly estimated, if any of you gentlemen have any doubt upon that point, all I need to do is to refer you to the stock markets. I have a statement, which unfortunately I have not brought with me, showing that in the case of the electric railway companies of Toronto and Montreal, the Montreal Telegraph Company and the Dominion Telegraph Company, the stock in the last ten years has increased nearly forty per cent in Toronto. Now, that is not due to an increase in the value of securities, because the rate of interest has gone down. It is due entirely to the increased value of their franchises. Now, in the case of telegraph companies the use of land is just as important as it is to a railway company. Let any person buy a strip of land across their right of way and having the right of severing the wire over their head, and what value is there in the telegraph line? It is, in the last analysis, the right of using valuable land; that is what their franchise is, and as such should be taxed. It is a simple matter to arrive at, very much more simple than to arrive at the value of personal property in cities and towns. All you have to do is to estimate the cost of replacing or of renting, and deduct that from the market value of the securities, and you have the value of the franchise.

The CHAIRMAN: Is there not a fallacy there? If the railways wanted another line between this and Hamilton, 320 more acres, 66 feet wide, would not they get it just for the value of the land between here and Hamilton?

Mr. THOMPSON: No, they could not get it without they go to the Government and ask for special privileges.

The CHAIRMAN: Should they be taxed for more than they paid for that ground?

Mr. THOMPSON: If we gave it to them for nothing. . . .

The CHAIRMAN: No, they buy it from the respective owners between here and Hamilton. Just consider this a moment. The owners of this land are now paying taxes; they sell it to the railway company for other purposes; why should the railway company pay more taxes after they have bought it than the present owners pay?

Mr. THOMPSON: For this reason, that first of all they go to the Government and ask for a special privilege.

The CHAIRMAN: Very good. They get that from the Dominion.

Mr. THOMPSON: Yes, they go there and ask for a special privilege from the people to not only buy land but also to use public property in the shape of roads, and then over and above that to run at a high rate of speed certain public conveyances.

The CHAIRMAN: They are doing that over their own line after they have bought it.

Mr. THOMPSON: But they can only buy it by virtue of certain concessions which they get from the Government.

The CHAIRMAN: Well, if they are taxed for that it is the Dominion that should tax them.

Mr. THOMPSON: The question of who should tax them is another thing.

The CHAIRMAN: That is not before us at all. What is before us is municipal taxation—what these companies should pay to municipalities.

Mr. THOMPSON: Well, I hold that the Ontario Government should have the right to determine the taxation of railways within its own bounds. The method and machinery for doing that would be a matter for future consideration; it is the principle.

The CHAIRMAN: It has the power of determining how these companies shall contribute for municipal purposes.

Mr. THOMPSON: Yes. Therefore I say that having that power, these railways having a very valuable privilege, which they obtain from the people, it does not matter whether it is from the Dominion Government or from Ontario.

The CHAIRMAN: Suppose you have in the City of Toronto two business establishments side by side. One is carried on by a private person, another is carried on by a person who has got a franchise, if you please, from the Dominion or from the Province. Would you tax them on different principles? This man who has got the franchise, who is a corporation, makes ten times the money in his establishment which his neighbour makes. Should he be taxed by reason of his being a corporation, by reason of his being a person who has a franchise, who is exercising that franchise upon land which has been bought and paid for? Would there be any justice in that?

Mr. THOMPSON: Unless you can give me a concrete example I could hardly discuss it, because I could hardly conceive of a circumstance such as you suggest.

The CHAIRMAN: A railway company happens to make a good deal of money, or a telegraph company, or an electric light company; why should they be taxed?

Mr. THOMPSON: They are using public property, and they should be compelled to pay for the right of public property.

The CHAIRMAN: No, they are using their property which they have bought and paid for.

Mr. THOMPSON: You mean the railways?

The CHAIRMAN: Yes, and the telephone company.

Mr. THOMPSON: The telephone company are using city property.

The CHAIRMAN: The interest in real estate which they use is an interest which they have bought and paid for.

Mr. THOMPSON: Not in the case of the telephone company.

The CHAIRMAN: Yes.

Mr. THOMPSON: They did not pay for the streets.

The CHAIRMAN: They have paid for the use which they are making of the streets.

Mr. THOMPSON: I don't think they did in the City of Toronto.

The CHAIRMAN: If not, they have got it by permission of the present municipality; the municipality has allowed the Government to give them this permission in their own interest.

Mr. THOMPSON: True, but that does not relieve them from the law of paying taxes, any more than the man buying real estate from the City is free from taxes. He pays for the privilege and then has to pay taxes, whatever it is worth.

The CHAIRMAN: Suppose the telephone company paid the City something for the privilege of using the streets, then would they not be using their own property?

Mr. THOMPSON: They would be using their own property, but even the use of their own property. . . .

The CHAIRMAN: They would be taxable all the same?

Mr. THOMPSON: They would be taxable on their own property, the same as a man that buys a lot on the Island; he has to pay taxes on the land and also on his house in addition.

The CHAIRMAN: How should it make a difference as to how they pay the taxes on the land they are using?

Mr. THOMPSON: I say that it does not, and that they should pay in addition the taxes on their franchise value.

The CHAIRMAN: Then if the Government made me a present of a hundred acres of land I should pay on a different principle from what I ought if I bought it?

Mr. THOMPSON: No, that is not my argument. These people should pay on their franchise. The Assessment Act has not determined what a franchise is. In the States it is now classed as land value. We claim it is land value, and therefore it should be estimated as such, and they should pay taxes on it as such; that is the point of contention that we make. Now, with regard to another point that you did not give me an opportunity to answer, suppose the railway were to buy another strip of land between Toronto and Hamilton, they could only do that in the first place by asking special privileges of the Government, whichever one it was, that had the right to do it.

The CHAIRMAN: No, they can expropriate it with their present powers.

Mr. THOMPSON: Then the value of one would go down and the other would go up. It would no longer be an exclusive franchise, but it would still be a franchise. Probably one would be worth as much as the other. Now, we do not encourage competing lines of railways, especially as they usually ask a bonus.

The CHAIRMAN: Suppose railways between here and Hamilton thought it was time to double their tracks like the New York Central—the time will come when they will want four tracks between here and Hamilton?

Mr. THOMPSON: Then in that case the value of the franchise would increase, because the traffic would warrant it.

The CHAIRMAN: Why should they be taxed on that land more than the farmer from whom they buy it?

Mr. THOMPSON: Suppose a combination of farmers endeavoured to run a line of railways by joining farm to farm, they would be met every mile or so by a public highway.

The CHAIRMAN: The farmer is the absolute owner and the railways are the absolute owners.

Mr. THOMPSON: They must get permission to use the public highways.

The CHAIRMAN: It is not the public highways, but land they are buying.

Mr. THOMPSON: It is the franchise value that makes the strip of land valuable. It is the fact that the Bell Telephone Company has a central office and they are all connected that makes their line valuable, if disconnected it is all scrap iron.

The CHAIRMAN: Would you tax the railway line as land, and their franchise?

Mr. THOMPSON: I would tax it as land, not as farm land; and I claim that their franchise is land and I would value their land as railway purposes, not as farm land which it is totally unfitted for. There is nobody would give many dollars for a farm extending from here to Hamilton, and only 66 feet wide.

The CHAIRMAN: Then you would value John Macdonald's warehouse as a wholesale warehouse for the wholesale trade?

Mr. THOMPSON: Yes.

The CHAIRMAN: Taking into consideration it was used for a wholesale warehouse?

Mr. THOMPSON: I would take into consideration that it would be suitable for that class of business. Before this session closes I have a suggestion to make which I hope will meet with the difficulty; the suggestion, I hope to make at some length and on another day when it is more open for discussion, is what we call local option taxation; all municipalities to experiment along the line of taxation which they claim or think is the best for themselves, and then, when you once find that one municipality has a better system than another, let that be made compulsory. On the other hand, if a municipality makes a mistake in the method of assessing they suffer by driving trade to another locality which treats trade in a better way, because it can easily be seen, in the face of all these conflicting views, that for the Commission to attempt, no matter how just in their views they may be, to satisfy everybody—

The CHAIRMAN: Have you considered this, all the different Provinces in the Dominion have this option and are experimenting and are trying from time to time to get the best mode of taxation; and that all the different States of the Union are trying the same thing.

Mr. THOMPSON: The difficulty of getting concerted action of two million people scattered over a Province like Ontario—

The CHAIRMAN: You are in favour of independent action, hoping a municipality might peradventure discover the golden rule.

Mr MACKELCAN: I think you would have a very beautiful piece of mosaic if the suggestion of the gentleman, who has just spoken, were carried out in each municipality according to the wisdom of the aldermen and municipal representatives to devise a system of taxation for a particular locality.

Mr. THOMPSON: I would have that left to the people, not to the aldermen.

Mr. MACKELCAN: The gentleman evidently thinks the people at large have more intelligence than the representatives they elect; if you left it to the people at large we would probably have as great a diversity of opinion, if not greater, than we have heard before the Commissioners to-day, and I doubt whether any of us could have any idea where we are at; I think it is better to have a body of men competent to thoroughly investigate and consider the whole subject, and consider what has been said on both sides, and, after carefully weighing all the statements and arguments presented, to evolve some system which would have general application to the whole Province. A uniform taxation throughout the Province is highly necessary in order that municipalities may not endeavour to obtain preference, each municipality for itself in some particular line, by giving privileges which another municipality would not give. The Legislature have already, in regulating the exemptions in force, imposed a great restriction upon the freedom of the municipalities—

Mr. FLEMING: Of the larger municipalities.

Mr. MACKELCAN: Yes. In dealing with a subject of that kind it was felt that at the time the right to grant exemptions was abolished altogether, that the existence of it led to an unfair rivalry in that way and resulted in one municipality trying to rob another municipality of an established industry by offering a bribe to some manufacturing firm to leave his present location and move to the rival municipality. What we are

dealing with here, however, I think is a system of general taxation for the Province; and I will deal with this question of the assessment of railroads independent altogether of the question of franchise. I look upon franchise from perhaps a more practical standpoint than some of the gentlemen who have spoken. There seems to be a good deal of misconception as to what the term "franchise" really means. If a railway were needed in some section of the country perhaps sparsely settled, and some resident, or a body of residents, a syndicate or a partnership, or an incorporated company, thought it would be desirable to build a railway from one point to another in that locality, that railway could be built without obtaining any Act of Parliament if the owners of the real estate over which it was to pass were willing to sell or give the necessary land for the construction of the railway over it; and if the municipality were willing that its roads should be crossed by that railway at the points where it would be necessary to cross the highways, then this body of business men or this partnership could operate the railway as a business enterprise without any statutory privileges.

Mr. JUSTICE MACMAHON: The only necessity for legislative authority is to enable them to expropriate. They can get from the municipalities, without any Act at all, if the municipalities are willing to give them the right to cross the highway, so that anybody could run a railway, whether steam railway or any other railway; but as to electric railways they could run it without any fear of actions for damages from fire arising. The only thing that steam railways would have to encounter would be the bringing of fire near the residents of the properties of the adjacent owners.

Mr. MACKELCAN: I do not think there is such a radical distinction between the property of incorporated companies and the property of individuals. What we have contended for all along here is that all property should be taxed alike, irrespective of who may be the owners or whether the owner is an individual, a partnership or an incorporated company. The object of forming a company is to gather in capital under regulations that couldn't be established in a private partnership or a private syndicate; the incorporated companies may get a very much larger number of contributors because they do not have to become all jointly liable for the debts and obligations of the concern; the contributors can limit their liability to the amount of the capital stock they subscribe for, and they can risk in the enterprise just the money they put in in the way of their subscription to the capital stock, and take their chances of the venture turning out a success or a failure without being dragged down to ruin probably by having to face liabilities which would exhaust all their means. Then, looking at the property of steam railways in the way as other property it seems to me the rule established by the statute, if it were only made more clear, is perfectly fair, that the land should be assessed according to the average value of land in the locality. under section 31, "According to the average value of land in the locality as rated on the assessment roll of the previous year." I would like to see the wording of that improved so as to say it should be assessed at the average value of the land in the locality instead of the words, "according to," because in our own city one assessment was reduced from $20,000 to $2,000 on the wording of that, assessing land "according to the value" of the land in the immediate neighborhood. If it were in the same condition as it was before being taken by the railway it would be worth what the land in the immediate vicinity is assessed at, but an excavation having been made so that the level on which that land now is is so far below that of the adjoining land that it is useless for any purpose for which the adjoining land would be used, therefore its value has been charged accordingly, and it was held it should be assessed only at the value of land lying where it is, worth only $2,000 instead of $20,000 the value of the adjoining land. I would like to make it clear that the construction that should be put on that statute generally would be that the land is valued at the same price as the average value of land in the community irrespective of what is being done with it. The railway might put a very expensive embankment there, costing hundreds of thousands of dollars; but we do not ask to add to the value of the land by reason of the immense sum of money that has been expended on it to bring it to the condition required for the purposes of the railway.

Mr JUSTICE MACMAHON: It would be highly improper to make any addition.

Mr. MACKELCAN: Yes, I think so. We want the Act changed so that the value shall be the average value of the surrounding land.

Mr. JUSTICE MACMAHON: In case of expropriation of farm land where the value

of land in the vicinity is $50 the arbitrators might by reason of the cutting of one farm award the owner of the farm a hundred dollars for the acre that is taken ; that should not affect the value of the rest of the land.

Mr. MacKelcan : No. The assessment should not be at the enhanced price given by the railway company, but at the average value of the remainder of the farm. That is the present law. I would only just ask that those words be made clear so that such a construction as I have spoken of should not again be put upon them Because as we do not ask to have the value increased by the improvements so it should not be reduced by the injury done by the work of the construction of the railway.

The Chairman : Do you think the value of the rails or ties ought to be considered?

Mr. MacKelcan : I have given the subject a good deal of consideration since the discussion yesterday, and it seems to me that it is only fair and reasonable that treating the railway property in the same way as all other improved property, the value of the ties and rails should be added.

The Chairman : Not the grading.

Mr. MacKelcan : No ; because I look upon the labour and grading as necessary to reduce the property to the level at which it will be of any use to the railway company ; it has only value to the railway company as so much land, and all the money that they have expended upon it has simply been for the purpose of bringing it to a surface where they can use it for the purpose of their railway, and although they have spent a large amount of money in doing that they have only got the same value for it as level land, say prairie land. Their ties and rails are added property that would be taxable before being laid down there ; they are property which would be taxable if they remained stored in the municipality ; and when laid down for the purposes of the railway it should be taxed as part of the railroad, just as bricks and mortar are taxed as part of a building.

The Chairman : What do you say about the ballasting?

Mr. MacKelcan . That is only earth, only material, only ground.

Mr. Justice MacMahon : It is only part of the embankment.

Mr. MacKelcan : Yes, but the property which consists of ties and rails, actual property, it seems to me should not be removed from the liability to taxation that it was under before being laid down upon the railway track ; that by being laid down upon the railway track it should not be, as it were, sacred from taxation. It retains its quality and it is valued as property, material property liable to taxation ; that is not changed at all by the fact of its being laid down upon railway tracks.

Mr. Wilkie : How about culverts?

Mr. MacKelcan : Possibly they may be considered as part of the road bed, necessary to bring the railway to the level upon which the line can be utilized.

Mr. Wilkie : Then we go from culverts to bridges.

Mr. MacKelcan : I am not saying anything about bridges. I believe there has been one case in which a bridge was held to be assessable. Of course a bridge like the Suspension Bridge, which belongs to an incorporated company that uses it simply for the purposes of rental is a structure by itself, and has been held liable to taxation, is taxed as such ; but if you adopt the principle in connection with railways of taxing their road-beds simply as so much land then it is necessary to raise an embankment, and if instead of an embankment they make a culvert or build a bridge, possibly the same rule applies to that I am not going to express a positive opinion as regards that ; but it is possible the same rule might apply to a bridge or culvert.

Mr. Justice MacMahon : A culvert is a small bridge.

Mr. MacKelcan : Yes, a culvert is a small bridge ; but I think the rails and ties are property that should be assessed on the same principle as buildings or any other material that goes to form a part of the realty into which it is attached.

Mr. Justice MacMahon : If you are going to assess the ties why not tax the bridges?

Mr. MacKelcan : Because, as I say, the bridges are necessary simply to bring the line the level that the railway requires in order to put the superstructure down. It may be the bridges ought to be assessed ; I do not say they should not ; but I am not pressing for that. It seems to be that bridges could not go on the same principle as an embankment ; but the superstructure, the ties and rails, are something above the land or level surface on which the railway is to be laid. I might say this, the bridge might be considered as part of the substructure that forms part of the line, and the rails and ties the superstructure.

The CHAIRMAN : They made trestle bridges on the Canadian Pacific which are now embankments, filled in.

Mr. MACKELCAN : Of course they are more valuable to the railway company as embankments than they were as trestle bridges ; and if they are not assessable as embankments it would be unreasonable that they should be assessed as trestle bridges.

Mr. JUSTICE MACMAHON : The trestle work was merely an expedient until an opportunity arrived when they were able to fill it in from each end. They are mere temporary structures.

Mr. MACKELCAN : Yes. It has been suggested that the real estate of railways receive no benefit from municipal taxation. As to whether this property comes under the category of property benefited by municipal expenditure I wish to say that railways usually include in their freight the cost of delivery of goods to the consignee, that is the cost of cartage ; and the expenditure of municipalities is considerably enhanced by the necessity for permanent roadways that will not be cut up in any kind of weather by the heavy loads that railway companies are continually taking over them to and from the railway station. Without facilities of that kind the rails and ties would be of comparatively small value to the railway company. If they could not get their goods to the consignee's warehouse, or to the place at which they were to be delivered in the city or town where the railway station is situated, the value of the railway, as a business enterprise, and the value of the property which they have laid down in the shape of rails and ties would be very materially affected.

Mr. JUSTICE MACMAHON : Is that so ? These cartage agents are taxed for their buildings and premises ; and the railway companies merely enter into an agreement with them for the delivery of the goods from the railway company's warerooms to the consignee, and pay them so much ; but they are separate corporations, separate entities. The railway companies have nothing to do with them ; they do not control their business, they merely pay them so much for the cartage of the freight from the consignor to the railway station and from the railway station to the consignee.

Mr. MACKELCAN : But the railway company is far more benefited and interested in that municipal expenditure than any private individual who has never a pound of freight to cart over those roads and who would not be affected at all if the road was left an ordinary mud or macadam road.

Mr. JUSTICE MACMAHON : The railway companies have nothing to do with that.

Mr. MACKELCAN : There is a benefit from municipal expenditure that the railways participate in to a greater extent than many private individuals who never receive any freight, but contribute to the expenditure ; and it is absolutely necessary in order that the railway company may transact business at all. Then, the larger the amount of freight that railway companies handle the larger will be the extent of the tracks it will have within the city or town ; and they will have to have a large number of sidings to hold the freight cars ; and every mile of ties and rails laid within the city is utilized for the purpose of local traffic ; and it participates in the benefit of the municipal expenditure in the improvement of roads and streets. And there is also a large amount of freight in the warehouses and cars which is protected by the water supply and the fire appliances of a city ; and if ever there is a fire at the railway station every fire brigade and fire engine in the town turns out, and every possible effort is made to stay the spread of the fire and prevent destruction of the freight and other cars ; and in that way the railway company receives great benefit from municipal expenditure in the way of protection of the very valuable freight which it necessarily has in course of delivery. The railway companies, as you are well aware, are insurers of all that freight until they are ready to deliver it, unless it has remained an unreasonable time before delivery ; meanwhile they are insurers of the freight so that they are deeply interested in the expenditures of the municipality for fire protection and for water supply. Therefore I say it should not be excepted from the classes of property that contribute to municipal taxation. Then there is one class of taxation that I desire specially to call the attention of the Commission to, that is the school tax ; I think that may be regarded as a provincial tax. Our Provincial Legislature has established a system of education which has been made compulsory through the Province. The school law is separate entirely from the municipal law ; the school board is a separate corporation ; and the municipality is told by the Legislature to provide these means of education ; and all classes of property throughout

the Province are made liable to contribute through the municipalities. The fund has to be collected and expended by the municipality, but it is not under the control of the body which controls municipal affairs; and so it is that this is in a body which controls municipal affairs, and so it is that this is in effect a state tax; and there is no reason why they should not pay their share of that taxation, although the companies and corporations of this kind do not derive any direct benefits from the schools, except that the schools provide them probably with educated and intelligent employees who are able to perform the duties required by companies of this kind very much more efficiently than if they had to be selected from an uneducated class of people who were picking up their education as best they could and as their parents could afford to give them. But that is a class of taxation that must be looked upon, it seems to me, more from a provincial than a mere municipal standpoint. So far as school taxes are concerned there is no reason why all classes of property should not contribute according to their value to that portion of the taxes. In our municipality that is a third of our whole annual levy; our levy is about twenty millions, and the school taxes are about six and two thirds millions.

Mr. JUSTICE MACMAHON: They pay school taxes now.

Mr. MACKELCAN: The question was put to me, To what extent are these classes of property benefited from municipal expenditure? The school expenditure is one I look upon as practically of a provincial character.

Mr. ROBINSON: I do not see any reason either why we should not.

Mr. MACKELCAN: There is no reason why all classes of property should not.

Mr. JUSTICE MACMAHON: The property owner who has the least children probably pays the largest taxes.

Mr. MACKELCAN; He is paying for the education of some one. And of course in the case of strikes or anything of that kind, where it is necessary to enforce order in a community the expenditure for the police protection is quite as important for railway companies as it is to any other classes in the community; so that all these subjects of municipal expenditure are those towards which railway property should contribute just as well as any other property. Then, we come to the question of rolling stock of railway companies. That may be occasionally stored or located in one municipality for a considerable period of time, or an average large quantity of rolling stock may be kept within the boundaries of the municipality for considerable periods of time, or I might say permanently that an average quantity remains. The question is, should that be subject to local municipal taxation or not? It may be said that that is all personal property and should be treated very much in the same way as steam boats and steam vessels which are exempt from taxation although they pay upon the income earned, so that personal property of that kind, moving from port to port, does not pay some municipal taxes for it is not taxed upon the local taxation You will find this in section 7, sub-section 29. Whether any taxation should or should not be imposed upon the railway stock of steam railroad companies, which are of a national character to a certain extent, or not is a subject that is very difficult to arrive at an opinion upon. There is no doubt a certain portion of the property does from time to time derive benefit from local municipal expenditure, but not the whole of it by any means. It simply passes through the municipality and gets no benefit from it whatever, and it might seem reasonable to ask that it should be subject to local taxation. Of course it never has been hitherto subject to local taxation. The land has been subject to taxation, and I think notwithstanding the decision it never was contemplated by the Act to exempt the rails and ties from taxation. They are not exempted in so many words. A method for the valuation of the land is given in section 31, but it does not say the land only is to be subject to taxation; and it seems so me the superstructure might reasonably under that section be liable to taxation. If not I think it should be declared to be so liable, on the same grounds as other property is. Real property, and improvements on real property, buildings and all superstructures are all liable to taxation. The same argument applies with equal force to electric railways and to telephone and telegraph lines. The law has already recognized the liability of property of that class to taxation; and very little need be said upon that. It was not suggested that that should be changed; all we have asked is that the method of valuation should be similar to that adopted with regard to all other property, and not excepting the one which has been the result of the construction placed by the courts upon our Assessment Act as now framed. Whether the rolling stock of these local railways should be subject to taxation or not is a question which may admit

of different views ; but I think myself there is very much greater grounds for asking that the rolling stock of these local railways should be assessed than that of national railways. That rolling stock is operated between certain points, probably not more than ten or twenty miles apart, and it is just possible that while the value of the roadway and superstructure is assessed in the municipality in which each portion of it lies, that possibly the assessment of the rolling stock might be distributed according to a mileage rate over the length of the line as it is passing with about equal frequency over every portion of the line ; and there may be some method of assessing that so as to distribute the value equally by mileage over the whole line of the local railway.

Mr. JUSTICE MACMAHON : You deal with it in this way, first ascertain the total number of cars owned by the railway without any reference to any hauls of the freight cars of other railways at all.

Mr. MACKELCAN : Yes, of course these local railways only operate their own cars. The difficulty with these steam and through railways is that the great portion of the stock they carry is not their own.

Mr. WILKIE ; Are you referring to railways which confine their work to one municipalty ?

Mr. MACKELCAN ; No, to electric railways which run through two or three municipalities and which operate only their own cars.

Mr. JUSTICE MACMAHON ; You had been speaking of steam railways.

Mr. MACKELCAN ; I had been.

Mr. JUSTICE MACMAHON ; And you would distribute the taxation for the rolling stock among the several municipalities of the Province through which the railway runs according to the number of cars they own.

Mr. MACKELCAN ; I think perhaps if the rolling stock of steam railways were assessed—

Mr. WILKIE ; I thought you abandoned that entirely.

Mr. MACKELCAN ; My observations now were intended to be addressed simply to the local railways who are operating their own rolling stock within a limited distance. At present they are not assessed at all, but I think that all the personal property should be assessed just as is would be assessed if the railway belonged to a private individual. If the railway belonged to a private individual all his property, both real and personal, would be subject to assessment ; and I contend if it belongs to a company it should be treated in precisely the same way.

Mr. PRATT : There are two classes of railways ; national railways and local railways.

Mr. MACKELCAN : Yes. It seems to me there may be a distinction between the mode of taxation of those two classes of railways on account of the difference of operating them, and the fact that one has all its personal property within a limited area, and the other has it distributed over the continent, you might say, from Halifax to Vancouver, and is carrying a very large amount of rolling stock belonging to other companies which would not be liable to taxation ; that has never hitherto been taxed, and I do not know whether it would or would not be just that the rolling stock should, as far as it can be localized, bear the burden of local taxation.

Mr. WILKIE : Take the Galt and Hespeler Road for example ; that is a local railway.

Mr. MACKELCAN : Yes.

Mr. WILKIE : They are in competition with the Grand Trunk Railway, and they haul freight cars from Hespeler to the Junction at Galt where they come into actual competition with the Grand Trunk. It would be a great disadvantage to that road to have to pay taxes on their own stock, while at the same time another railway goes untaxed.

Mr. MACKELCAN : I do not suppose they would be called upon to pay taxes for Grand Trunk or other cars that they haul. I have no doubt the freight cars they draw are not all their own.

Mr. WILKIE : Take passenger traffic. One road would pay taxes on its passenger cars, and the other wouldn't——

Mr. MACKELCAN : Then tax them both. All should bear their fair proportion of taxation. The difficulty about the steam and national railways is as to the mode of arriving at what would be a fair distribution or the extent of local service rendered to property of that kind.

Mr. JUSTICE MACMAHON: I suppose if taxed at all that would be the only fair way to do it. In London the Grand Trunk Railway Company has several miles of siding outside of the city, in the township, where they store their cars for the time being.

Mr MACPHERSON: Cars from the United States are lying there and elsewhere——

Mr. JUSTICE MACMAHON: They have many cars there in London at certain seasons unused.

Mr. MACPHERSON: I do not think that American railways would like the idea of assessing their cars in Canada.

Mr. JUSTICE MACMAHON: You cannot do that.

Mr. MACKELCAN: They would be really passing through. They are not permanently located or domiciled in the municipality, although the cars of the local railway may be. In connection with the taxation of the personal property of such companies as gas companies and telephone companies I can conceive no reason why personal property of companies of that kind should be exempted from taxation any more than the personal property of an individual. The Gas Company, for instance, has quite a large sum of money invested in gas meters, and these are personal property; they are attached to the premises of the various subscribers, not to the freehold belongings of the Company; these have been held to be personal property and so not liable to taxation; and in the same way the telephones rented by the Telephone Company which are attached to the premises of the individual subscribers. Whether all that property should come under and be liable to taxation as the property of individuals is a question it seems to me for the Commissioners to consider. I see no reason why it should not bear the same share of taxation as the property of individuals of the same class. If the telephone or the gas meter belonged to the individul whose house it is in, it would be subject to taxation as his other property; but being separated from the real estate of the company and attached to the property of the individual it is not taxed as part of the company's real estate, and so escapes taxation altogether, as the companies are not subject to taxation on their personal property. I point out these anomalies that arise and exist under the present law, and I ask that the incidence of taxation should be made uniform so as to cover these classes of property no matter who may be the owner.

The CHAIRMAN: Do you mean to say the telephone is of a different character from the wires?

Mr. MACKELCAN: I can only say it has been held to be personal property and not part of the real property or plant of the company for the reason that it is attached to the freehold or property of the individual subscriber.

The CHAIRMAN: Where has it been so held?

Mr. MACKELCAN: It has been held by His Honour Judge Snider, in Hamilton, and by the Board of County Judges.

The CHAIRMAN: That the telephone is personal property, but the wire to which it is attached is not.

Mr. MACKELCAN: The wire which brings it to the house is not; but from the time it is attached to the private premises of the subscriber it ceases to be subject to taxation. I think there should be no distinction between property belonging to a company of that kind and the property of individuals, but it should be liable to taxation in their houses just the same as in the hands of individuals.

The CHAIRMAN: Has any distinction been made between wires and poles?

Mr. MACKELCAN: Not that I am aware of. No, the wire has been held to be attached to the poles, and therefore all part of the structure.

The CHAIRMAN: Of the same character, for the purpose of taxation.

Mr. MACKELCAN: Yes, all held to be real estate. It has been held to be real estate, but valued as personalty severed from it.

The CHAIRMAN: It is difficult to see the distinction between the wire and the telephone.

Mr. MACKELCAN: I am just stating what is the fact. And the same as regards gas meters; although they bring in a large rental to the company they are not liable to taxation, the Gas Company, having invested the greater part of its means in real estate, is exempt on personal property; and these gas meters have been held to be personal property and not part of the real estate of the gas company. I will only mention one other point with regard to the taxation of street railways. Much has been said here upon

the difference between railway companies who pay an annual rental for the use of the streets and those who do not. We have been disposed in the city of Hamilton to treat the railway companies that pay a large annual rental as liberally as possible ; but on consideration of the matter I do not think there is any distinction between those railways who pay a rental and those who do not. A rental is paid by street railways that are purely urban, that is, that are established for the purpose of conveying persons from one part of the city to another. There is a very large local traffic obtained from that source by those railways ; and the privilege of using the streets for the purpose of earning the large aggregate amount of fares that are taken upon these urban railways during the year is a very valuable privilege ; and they pay the city for the privilege a rental supposed to be equivalent to, but really very much less than would be the interest upon the cost of land if they bought land for the purpose of operating their railways upon their own property instead of operating in the public streets, so that they could be in no better position than the steam railway which has purchased its right of way ; and they should be taxed, it seems to me, upon the same basis ; they should not be allowed any immunity from taxation by reason of their having paid for their right of way, although they pay a rental instead of having to purchase it. Suburban railways are often allowed to run through the streets of a city without payment of any mileage rate or any percentage of receipts, and they are in some cases even given a bonus for this reason. They are treated as feeders to the business of the city, and they are encouraged for the reason that the use by them of the public streets for the purpose of earning profit or dividend upon their stock is simply compensated for by the trade they bring into the place. In that way the two classes of railways, those who pay a rental for the streets and those who do not, should be upon the same footing, because those who pay are getting the full value for that which they are paying their rent for ; and the others are bringing a benefit to the city in return for the use of the streets which is accorded to them, the use of those streets being accorded to them for the purpose of bringing this benefit to the municipality ; and I think all their property should be subject to taxation just in the same way as the property of other persons. I will not say anything upon the subject of franchise in regard to those companies, because that subject has been very fully dealt with by others. My own view of it is if they pay the taxes upon their property they are paying the same way as other people pay ; and they take their chance of getting something—of making a loss or making a profit, the result depending on the way in which they carry on their business ; and the rental they pay for the use of the streets is supposed to be an equivalent for the benefit they get from having the use of that property. But there is a very large body of ratepayers I know who think these franchises should be taxed. I see, however, a great difficulty in arriving at a value of the franchise. I have stated it is a comparatively easy thing to estimate the value of tangible business property, but in estimating the value of franchise, if you have to go into profit and loss we know that book-keeping can be so managed as to shew either a profit or a loss, very often depending upon the manner in which the books are manipulated. You may charge all your permanent improvements to revenue account and show that you made no profit ; or you may charge your permanent improvements to capital account and then shew a very large surplus revenue. We all know that no government can bring out a financial statement but that the opposition challenges that the book-keeping is all false, that current expenses have been charged to capital and the figures have been so manipulated that the shewing is entirely fallacious and entirely erroneous. I do not remember a financial statement ever being brought out but what the opposition made a charge of that kind against it. If that can be the case in regard to the Government, it is quite easy for the railway company or any other company to shew either a profit or loss according to the manner in which these various accounts are dealt with or the manner in which entries of that kind are made. For these reasons I am not in favour of any method of taxation that compels the taxing of a profit and loss account of either a merchant or of a railway corporation. If a merchant should not pay taxes on the total value of his stock in trade let him pay taxes on fifty or twenty-five per cent. of that valuation, but do not get into the question of profit or loss, because a man may say his book-debts are worth little when they are really worth ninety cents on the dollar ; or he may represent them to be worth ninety cents on the dollar for the purpose of standing well with his creditors, when they are not worth more than forty cents ; so that to arrive at an estimate of profit and loss you must take in so many

elements that are full of uncertainty that it is impossible to arrive at the real, true result that you can with tangible visible property, because experts can value the latter; if a person is acquainted with goods or property of the class he can go over it, and a stable, thorough and equitable result can be arrived at in that way.

Mr. WILKIE: You do not agree with Mr. Hutton's suggestion that there should be an income tax in lieu of taxation on personalty.

Mr. MACKELCAN: No, I do not. I think it would be far safer if a merchant should not pay upon the whole value of his stock, but only upon a portion of it, let it be 25 or 30 or 40 or 50 per cent. of the goods that are carried. He knows now, for instance, what amount of insurance he carries, and it is easy for him or for anybody to tell what is the cost of his stock laid down in his establishment there; with his stock sheet and merchandise account it can be arrived at in an hour or two, but I defy any man to say that he can come to a certain conclusion in estimating what his profit is. And, besides, it is too inquisitorial in its character altogether, and is just the very kind of enquiry that it is desirable to avoid in these matters of assessment.

The CHAIRMAN: What would you say in reference to the use those companies make of the streets, the gas company, for example, and the water companies, and the telephone and telegraph companies? Now, would you value the use which they make of the streets? I understood you to say, I think, you regarded that use as an interest in the land.

Mr. MCKELCAN: Yes. I may say that question was fully argued before our County Judge, Judge Snider, and I thought his conclusion upon that question was a very cogent one—a very sensible one; for instance, the gas company in Hamilton have a statutory title to six feet in diameter of the soil underneath the surface for the purpose of laying their pipes, and we assessed them for that as an interest in the land to which they have a statutory title, and assessed it at the same value as the surrounding property.

The CHAIRMAN: Not merely an interest in the land, but an actual ownership.

Mr. MACKELCAN: Yes, an ownership of so much of the land. Judge Snider held that in estimating the value of the gas pipes as they were imbedded in that land, supported by it, and being used by the company, or being placed in and through that land, that he valued the plant as a going concern, and he gave the value to the land by giving the pipes the value as they lay there supported by and embedded in that land.

The CHAIRMAN: Treating the pipes as so much iron.

Mr. MACKELCAN: No. He treated the pipes at what it cost to lay them there.

The CHAIRMAN: As an improvement on the land.

Mr. MACKELCAN: Yes. He took in the cost of digging and of laying them in the shape in which they were; he didn't value the land by itself, but he said he gave us the benefit and value of the land by valuing the pipes, as they were supported by and sustained by and contained in that land.

Mr. JUSTICE MACMAHON: There was no value to the land at all; I suppose what he did was to value the pipes placed there in the situation in which they were.

Mr. MACKELCAN: Yes. He said he gave the value to the land in that way, which seemed to me was very intelligible.

Mr. JUSTICE MACMAHON: Without the pipes the land was valueless.

Mr. MACKELCAN: Yes, and without the land the pipes were valueless. He took it at what the investment cost, less an allowance for wear and tear.

The CHAIRMAN: Did he consider it more valuable at the intersection of King and James streets than at the outskirts of the town?

Mr. MACKELCAN: No.

The CHAIRMAN: Neighbouring land to that point is the most valuable in Hamilton.

Mr. MACKELCAN: Yes.

The CHAIRMAN: Did he consider that?

Mr. MACKELCAN: No.

The CHAIRMAN: Is that consistent with the fact that you say the gas company is the owner in fee simple of so much of the soil at that corner?

Mr. LYNCH-STAUNTON: It is sub-soil, so it makes no difference.

Mr. MACKELCAN: Of course if their right on that land was valued as railway lands are valued, at the value of the adjoining property, there is no doubt it should be assessed higher than it was.

The CHAIRMAN: Has there been any increase in value since the gas company acquired its right?

Mr. MACKELCAN: There is no doubt an increase in value.

The CHAIRMAN: Has there been any increase in value in that freehold right which the company has acquired?

Mr. MACKELCAN: Certainly there has.

The CHAIRMAN: On what principle has that increased value been computed for the purpose of taxation?

Mr. MACKELCAN: We have not computed it at all for the purpose of taxation; we have simply valued the plant at the cost of putting it where it is.

Mr. JUSTICE MACMAHON: They have not the freehold in the land, but a license to use it.

Mr. MACKELCAN: It is not a license from the corporation.

Mr. JUSTICE MACMAHON: They have a license to put their pipes down there for all time.

Mr. MACKELCAN: No; their position is somewhat peculiar. They got their charter about fifty years ago, and they got a right to that land, and nobody else can lay a pipe within six feet of their pipes; they have the absolute right to it.

Mr. JUSTICE MACMAHON: It is an exclusive easement.

Mr. MACKELCAN: An exclusive ownership of that much of the soil. If another gas company attempted to lay a pipe within six feet of their pipes they could get an injunction to prevent them doing it. They have not only the right to lay their own pipes there, but such a proprietary interest in that soil that they can prevent anybody else from laying the pipes. I think their position is stronger than that of most companies exercising franchises under the permission of the municipality. As to the property of the Street Railway Company being assessed as freehold property, we look upon the poles and rails as having a value added to them by reason of the support they have from the real estate different from what it would have if it were all torn up and thrown aside. We think it should be valued as it is, and in the place where it is, and where they have a right to have it as part of the solid structure sustained by the sub structure, the street and the superstructure above, consisting of ties and rails and wires.

The CHAIRMAN: Is that interest in land which the Street Railway Company enjoys capable of increase by the prosperity of the city or otherwise?

Mr. MACKELCAN: Yes; certainly, and constantly.

The CHAIRMAN: On what principle?

Mr. MACKELCAN: As the city increases the value of the streets to the Company increases; for instance, you could not get a privilege in a street now for the same price as you could have got it twenty years ago. It is more valuable, it seems to me, by reason of the increased earning power that such a line would have.

The CHAIRMAN: Is that what it depends on, the increased earning value?

Mr. MACKELCAN: It is the use of the street that gives them the earning power.

The CHAIRMAN: Could you measure the value of the street by the earning power? If the value of this use of the land depends on the earning power that would be a criterion by which to gauge the proper amount of assessment.

Mr. MACKELCAN: Yes.

The CHAIRMAN: That would come to Mr. Thompson's principle, wouldn't it?

Mr. MACKELCAN: If they pay a percentage on their gross earnings we get an increased revenue as the business increases.

The CHAIRMAN: That is a consideration for the franchise?

Mr. MACKELCAN: Yes. That is independent altogether from municipal taxation.

The CHAIRMAN: That is the price they have paid for what they are enjoying, and it is now theirs for that reason?

Mr. MACKELCAN: Yes. But we have not asked to tax their property further than their rails and ties and poles and wires, placed as they are now.

Mr. LYNCH STAUNTON: But you would increase it all the time?

Mr. MACKELCAN: No. I think it is about five or six or eight thousand dollars a mile that that superstructure cost and is worth where it is; and we only ask to assess it where it is at its value in its present position, and that would be what it would cost to put it there, with a deduction for wear and tear and for the age of the structure as it now

stands. I think that in Toronto here they arrive at the $6,300 as a fair valuation per mile, assuming it to be assessed at its fair value as a superstructure; but under this scrap iron basis it came to $900 We only ask for a fair valuation just as they agreed to when they thought the law to be otherwise than it was held afterwards to be.

Mr. CHRISTOPHER ROBINSON, Q C: I have spoken to my clients, and they are very anxious if possible to give every assistance in their power to the Commission, if they can see their way to doing so efficiently. I believe the Commission is likely to sit for two or three days on other matters; and if it will suit the views of the Commission, my clients would like to make further inquiries and give what we have to say in a day or two as to what can be done.

The CHAIRMAN: We can hardly disturb the present programme for any length of time.

Mr. ROBINSON: I do not ask you to disturb it, but to state what you think we can do, say on Thursday or Friday. I would like to have an opportunity to make known our decision.

The CHAIRMAN: We shall be glad to hear that at any time.

Mr. FULLERTON, Q C.: I would like to reserve anything I have to say in reply to what was said yesterday until these gentlemen have completed their case. It would be useless to address you now, and then have arguments given again, with another right to reply, which no doubt you would hear.

The CHAIRMAN: We shall be very glad to hear you now if you have no objection. And if the interests Mr. Robinson represents ask to reply, then you will have a further opportunity of answering them.

Mr. FULLERTON: Then I will make a few remarks at present.

The CHAIRMAN: What we want to do is to try to keep the division of subjects as well in hand as we can.

Mr. FULLERTON: My only reason for suggesting it should stand would be that I might answer it all at once and save the time of the Commission in that way. I won't in any event be long.

The CHAIRMAN: I think we would rather hear what you say now.

Mr. FULLERTON: Mr. Robinson spoke on the question of steam railways, which he put on a different basis. The present position of companies such as those you are considering now, in reference to taxation, was not in a satisfactory condition—I am not using his exact words, but I think the substance—as he thought the burthens were not distributed equally and fairly, but some reasonable change ought to be made so as to make the result equal and fair, some change to make it satisfactory. Now, I thought he was inclined to find fault with us for not having formulated some one of the thirteen or fourteen schemes he intimated existed; but what we are endeavouring to do is to be practical and to make the present scheme that we have, the present mode of taxation that we have, reasonable and fair to all; and with that in view, as pointed out yesterday, I will give you as soon as I can get the opportunity of dictating, the changes in the three sections, (sections 18, 28 and 39) that I think would fairly accomplish what we want to get. I will dictate those as requested by you and hand them in; I have not had an opportunity so far. While I admit, perhaps, a little fault with us, Mr. Robinson did not himself, or any of those that followed him, lay out any specific mode of taxation or say how they would be prepared to bear their burden and ask time for that; so I am not in a position to go into details of that, and I will leave that for another time. Then, one word as to what Mr. Martin suggested in regard to gas companies; he said that we only taxed them, or we claimed they were only taxed for a song. I thought he would have been more apt in his musical allusion if he had suggested that the "gas companies pipe and don't pay for it;" but at any rate his admission, or his statement was that we claim they do not pay; and he, it seems to me, admitted that they do not pay. Then he gives one or two reasons to show why they do not pay. It seems that both in Hamilton and here in obtaining their privileges an Act was passed that limited their share in the profits to ten per cent., that is, when the amount that was paid by them to their shareholders came to ten per cent. sums were set apart—at least that is the case here—for the purposes of the stability of the company; then all moneys over that ten per cent. after payment of directors and so on shall go in the reduction of the price of gas. Now, I think it will be admitted that ten per cent. on the capital invested is

pretty fair profit; I think the company that is paying ten per cent. and that is allowed to pay ten per cent. for enjoying a public privilege or a public right—I will not call it a monopoly at present, but I will deal with that in one moment—should not grumble if they are asked to bear their fair share of taxation along with other people on the moneys invested by them which is allowed to pay them that ten per cent. It is quite clear, it is quite evident as stated by the chairman of this board yesterday that they are not a monopoly; I would not contend that for one moment from a legal point of view, yet I point out this, that when a gas company or a telephone company gets possession of a great city, gets its business started, gets practically the whole community as its customers it would be as idle for another company to start in opposition to it as it would be for another company to start to do a gas business or telephone business in the wilds of Muskoka; the practical result is a monopoly though the legal result is not a monopoly.

Mr. LYNCH STAUNTON: So it is with every business that has got a good name.

Mr. FULLERTON: On that ground neither the gas nor telephone companies perhaps would come in.

Mr. LYNCH STAUNTON: No, not with you; because you never think anybody has a good name that you have to deal with; it is your business not to do so.

Mr. FULLERTON: I will not join issue with my learned friend on anything personal just now. The point that my learned friend raised that any business that has a good name enjoys to a certain extent a monopoly has some force to it; but this is a monopoly that does not depend on good name at all; it depends on a franchise of a peculiar character which gives a certain power to get control of the business, and when once the business has been got control of that has to be displaced before any other company can hope to make a revenue or an existence in competition therewith. That being so the Legislature saw that and they made these provisions to prevent these companies from increasing the price of gas beyond what was a reasonable and a fair price; but surely they never had in contemplation that this should be made the reason why, because they can only make ten per cent. and cannot go beyond that that they should escape their fair burden of taxation. Now, just for one moment again, dealing with the Street Railway I pointed out to this Board yesterday that there had been a judgment of the County Court Judge dealing with the question which was principally relied upon by Mr. Bicknell in his argument. Judge MacDougall thought the agreement between the city and railway company in no sense prevented them from paying taxes; it was a purchase and sale. I pointed out that Judge Dartnell took the opposite view; but at the moment I overlooked that the veritable question at a later period came before the Court of Appeal and was discussed in the Court of Appeal, and while none of the Judges of the Court of Appeal dealt with it in the judgment which they rendered in the matter it was discussed, as the statement in the argument will shew; and on that I refer you to 25 Appeal Reports, page 135 in the "Re Toronto Railway Assessment." I have not the factum for the appeal case before me, but I have a distinct recollection of the reasons of appeal shewing the very grounds which Mr. Bicknell contended for, and I find in the statement and argument at page 136 this set out: "Whether this is the true construction of the Act or not it has been settled for more than twenty years that the rails are not liable for assessment (Toronto Street Railway Company v. Fleming, 37, U. C. R. 116) and the agreement between the Appellant and Respondents was based on this statement of the law—the basis upon which the parties contracted." I have further a distinct recollection of the question being argued fully by counsel who appeared for the parties, Mr. McCarthy and Mr Laidlaw for the railway company and Mr. Robinson and myself on the other side, and the judgment was that they were liable for taxation under the Consumers Gas Company's case and under the previous judgments of the Court of Appeal. We have therefore the question of their liability I think settled by very competent authority, and that they were not exempted from taxation as Judge Dartnell suggested, was not a matter that could be open for consideration after that judgment of the Court of Appeal; and it seems to me that must be so on the facts. Mr. Bicknell pointed out that they had paid large sums to the city, that they had paid one million five hundred thousand dollars in money and were paying now at the rate of $200,000 a year. But what difference can that make, whether it is "purchase" or whether it is "tax"? We had a certain thing for sale and we set before them the grounds on which we would sell that We asked them for their tender for the price that they would pay, we asked it along certain lines. Three companies came in and

tendered and the present company was the successful company, and they said, we will pay you that price, so much cash, so much mileage and so much percentage. Now, that was a bargain and sale of something we owned, something we had and something we are sorry we did not retain. We do not think we made too much money out of it; we think we would have been a great deal better off if we had not sold; we think that they, and not the city, made the money. We think the price they paid us was a comparatively small price, according to subsequent events, but it was the price. It was not taxation; it was not intended to be a tax. It was not intended to relieve them from taxation; in fact that question was never considered one way or the other except in clause 21 of the agreement which provides for the application of school taxes. Therefore we say that in dealing with them in regard to taxation that is not a double tax and should not be considered and should not be so dealt with. Now, I pointed out to you yesterday that the law was very clear that the municipality could neither tax or exempt from taxation; that I have a recollection of having read more than once, in more than one place, but two references will make it abundantly clear. No doubt it is a matter that will be clear to the legal members of the Board, if not to the lot; and I would just refer you to two passages in Cooley on taxation, one at page 678 as to power to tax, where he says, "It has also been assumed that all local powers must have their origin in a grant by the state which is the source and fountain of authority. The power to tax is no exception to this general rule. Every municipal corporation and every political division of the state which demands taxes from the people must be able to show due authority from the state to make the demand.' And on exemptions, at page 200 of the second Edition you will find a passage equally short and clear. "The general rule on the subject is familiar and it has been too often declared to be open to question. The right to make exemptions is involved in the right to select the subjects of taxation and apportion the public burdens among them, and must consequently be understood to exist in the law-making power wherever it has not in terms been taken away. To some extent it must exist always for the selection of subjects of taxation is of itself an exemption of what is not selected; but the power to exempt even from among such subjects is more likely to be restricted than to be altogether prohibited. Pertaining as it does to the sovereign power to tax, the inferior municipalities of a state are not possessed of it, and they cannot therefore make exemptions except as expressly authorized by the state." Then, that being so, we were in making the contract with the Street Railway in exactly this position, as authorized by the State, and we have no power to tax or exempt; but as to dealing with our private property we were in no other position than a private individual who owns land and wishes to sell it, who owns a railway and wishes to sell it; we are not dealing with it in our capacity, or in the position, or with the powers that are given to us in regard to taxation; and where we sold to the railway and conveyed this line, we were not able to convey it exempt from taxation, we were not able to convey it subject to taxation; but we simply conveyed it subject to its incidences as property just the same as though we were a private individual and not a corporation at all. That being so, and I submit that is clear, beyond all question, as a legal conclusion, the agreement neither makes it taxable nor relieves it from taxation, but leaves it subject to the law whatever that law may be. And the parties evidently had no intention except in one particular of varying from the law.

Mr JUSTICE MACMAHON: Doesn't it look like this, that the corporation is still retaining an interest in the railway to the extent of its earnings and what the corporation would get was to be governed by the net earnings of the road?

Mr FULLERTON: In that sense as part of our purchase price or purchase money the earnings of the road were a matter of great importance to us; the more they earned the more they paid us, and the less they earned the less we got, and our price was not a fixed price but a price depending upon the earnings of the road and the extent of the mileage of the road; but it was nevertheless a price and they were nevertheless the purchasers. I do not see why A could not sell his farm to B, and make a condition that he should receive so much money and for ten years so much of the produce of the farm, whatever it might be. It might be a very equitable way of doing it because it might be represented that the farm was very profitable—

Mr. JUSTICE MACMAHON: You are farming on shares?

Mr. FULLERTON: Hardly, because we have nothing to do with the management of the farm. We conveyed an absolute property with the condition to pay so much. In this

case we have conveyed the ownership of the railway, the management of the railway, or control of the railway; but we are to get as part of our price so much of the gross earnings. Under these circumstances I submit that that has nothing to do with the taxation; it is entirely separate from it; that it is not a double tax; and that they should pay. The observations that I addressed to you in the beginning, and previously on this point, I think cover all that I need trouble you with in regard to that. The view that the assessment commissioner has taken and that I am urging in regard to these companies is that at present we should not ask to tax them on the franchise, but ask to tax them just as the rest are taxed, on their whole property, real and personal; that there is no reasonable ground for their being exempt more than others. And in that view some new light was presented—

The CHAIRMAN: The word "franchise" is used in this connection in a very limited sense; it is the right to use freehold land in certain ways.

Mr. FULLERTON: Yes. I am not overlooking that you suggested that as the meaning of the word franchise as you were using it here; and in that sense where we find land owned by a gas company on which they build improvements and so on, while the franchise becomes much more valuable as the city grows, it struck me that six feet of land under the ground at the corner of one street or another, not in competition with other building land and not in competition for any other purpose but used merely for this purpose, did not increase in value to the same extent that the land that was open for purchase did; and that the fair and reasonable taxation value was that suggested by Judge Snider, that it cost so much to improve that land for the purpose of this undertaking; that is, to put their pipes into the land, and get it ready to be used as part of that enterprise or as part of the buildings or improvements of that enterprise, cost so much; and a very reasonable criterion I submit of the price of a house or of the improvements is what it would fairly cost to replace them. That being so, if I am right in saying this land being not in competition with the surrounding land by reason of being under the road or so much part of a road that it cannot be changed from being part of the road—it cannot be put into competition with anything else—would be fairly dealt with as against that by treating it as land improved for the particular purpose they use it for and what was its value to them. Then with our distinction of "fair value" or "value"—that all property should be taxed as its "value"—personally I prefer rather the word "value" to "fair value"—what would be the cost of replacing it if that land was not there and they had to replace or fix it? If we got at that it seems to me we are making them bear their fair burden of taxation along that line. I do think that, as in the case of the street railway, municipalities or governments should not grant privileges of this kind without the power to recall them or to make them pay exactly as the street railway is paying. In some cases they have gone very far, for instance, take the Chatham telephone case, which I see was before your Lordship the other day—and I am happy to see that your Lordship arrived at the conclusion, as I read it in your judgment, that the Bell Telephone Company cannot lay down its line of poles along the street without the permission of the municipality. In reading the section there are those who have arrived at a different conclusion. I have not the exact wording before me, but it speaks of poles 40 feet high and wires 22 feet high—I do not know whether the point was argued along that line before your Lordship or not, so that I do not purpose to discuss now, although there is a good deal of diversity of opinion along that line. I do not know how far it was argued; but it does seem to me to be reasonable, and it would still be reasonable that municipalities should have a right to charge reasonable sums for franchises that were given out—or if not municipalities at least governments; that franchises should not be granted to run for all time without control—however, we are not asking the taxation of the franchise at present.

The CHAIRMAN: A single foot of land at the corner of King and Yonge streets would be of very little worth.

Mr. FULLERTON: Not worth anything.

The CHAIRMAN: It would be the same up to a certain number of feet?

Mr FULLERTON: Yes.

The CHAIRMAN: What you have to consider regarding a piece of land is what use it can be put to and how far it can be made profitable; it seems to me that that is the determining element. Now, taking this right to use the street, you would not say one single foot was of any value at all, or ten feet or a hundred feet; you want the whole

thing from end to end of the street; you have to take it as a whole, this right to use the street either for the street railway or for the gas works. If you cut it up into small sections it has no value at all; you have got to have a right to use it in its full length in order to ascertain its worth. Then, what is the right that the railway company has? It is a right to use all the streets for the company's business; and that is what makes it a valuable right and the only thing that makes it a valuable right, as it strikes me at present. Then the question is, what is that right worth to them; how do you determine it? How do you determine the land at the corner of King and Yonge streets for business purposes? What is it that determines its value? Is it not its situation? It is a place to which customers come in the greatest number; it is that part of the city which is the most frequented and therefore it is the most valuable for business purpose; is that not so?

Mr. FULLERTON: That is what creates its value.

The CHAIRMAN: And determines its value. As mere ground the soil is no better than the soil in any other place, the character is in no-wise different; it is the same kind of soil, and it is as easily dug up, and excavated and built upon than in any other place. But it is its relation to the population that makes it valuable; its fitness for doing profitable business. Now, apply that to this right to use the streets; isn't that what determines its value also? It is fitness for the doing of a profitable business.

Mr. FULLERTON: Yes.

The CHAIRMAN: That is the extent to which they seem to use the word franchise in reference to taxation. There is a good deal to be said, it strikes me, as to that being the true way to get at the value of these rights for the purpose of assessment.

Mr. FULLERTON: I think so, And I confess, in one or two of the speeches that have been made by the young men, who have been dealing with that question, I thought there was a good deal of logic and a good deal of force; but for the present that is not the basis upon which I have been putting my argument. So far as the Street Railway is concerned, that right we have sold; but we have not sold that in an agreement free from taxation, nor have we intended so to do.

The CHAIRMAN: Yes, I understand that.

Mr. FULLERTON: I see the great force in what you are suggesting in regard to that; but what we say is at present, in the present system of taxation the changes we suggest, our views——

The CHAIRMAN: The way it strikes me in my view is this particular right is no more valuable at the intersection of King and Young Streets that it is a mile or two miles away; it has all to be regarded as one thing.

Mr. FULLERTON: That is, treated as a whole.

The CHAIRMAN: Just as one single foot at the corner of Young and King Streets is in itself worth nothing; its value consists in some one person having a reasonable quantity of those feet in order to make it useful.

Mr. FULLERTON: Let me follow that out a step further; I think a difference might be made in this way—I had occasion to consider it at the time the street railway was being sold and one proposal that was suggested at that time was that the street railway should not be sold as a whole, but should be sold in eastern and western parts, or should otherwise be dealt with in sections; how, if the central part of the city was sold for street railway purposes, say for two miles, it would certainly be a great deal more valuable than outlying portions would be. I think it is a claim well stated by the railway that they do not care to extend their railway track further north than the line of the C. P. R. tracks because they got all the railway traffic from the people beyond that; those people must come to the railway to get to the city. So that piece might be marketable and valuable if severed, but if taken as a whole it may be all they are worth as one franchise; and if assessing franchises were to prevail with this Board then I think the way you suggest of dealing with it would be the proper way. Whether that will be the view or not I did not propose to discuss that——

Mr. JUSTICE MACMAHON: Take the property in a district say two or three miles out and for hours every morning the whole population, say from Parkdale to the centre of the city, is brought in, and the whole population of Parkdale goes out in the evening, taking the centre of the city as its place of departure.

Mr. FULLERTON: The story is told of an American who hung on to a strap until he got beyond the subway, when he said, good gracious, have none of these peoples homes?

Coming from that to the steam railway question, I want to point out perhaps what applies to another thing that is important: there has been a little tendency in the arguments here to treat assessments as being something made by the municipalities of their own volition. Now, as a matter of fact the municipalities do not even control the assessment but the assessment is made under the statute, by the assessors under the direction of the statute, and all the municipality has power to do is to appoint the assessor and to pay him, and one or two incidental things such for instance as enlarging the time for payment or something of that kind; but the whole system of taxation is not municipal but rather governmental; it is directed by the statute. And the assessor, in the American cities at any rate, and I think in one or two cases of our own, has been held, differing therein from the collector, to be a judicial officer performing a judicial duty, not controlled or directed by, or liable, to the municipality for his acts unless in certain special cases. The last proposition that the municipality is not at all liable is only supported by some authorities, not by all, even in the American cases; but there are cases that go that distance, and you will find them in Blake or Blackwell on Taxation, and also in Cooley on Taxation. That being so, and the whole matter being one that the municipality is directed to deal with, then comes the next question which I think is important, that at least four of the great heads of taxation are collected for the benefit of the whole community and not for the municipality. I refer to the police, for the municipality has not the control of the police, but the police are hired by a Board appointed under statute, and are controlled by that Board; they are directed by the municipality; the municipality only collects the money and pays them. That point is fully decided in Kelly v. Archibald.(*a*) The next great head that occurs to me is fire protection which is perhaps more municipal, and in the City of Toronto, under Hesketh v. Toronto (*b*) is under the city's direction; but it is for the protection of property rather generally and to all than to the persons in the municipality. Mr. MacKelcan further deals with schools. Education is rather provincial and is directed by Boards of trustees over which the city council and municipal councils have not control—I do not speak with authority about the municipal councils. I once taught school in a country school but there have been so many changes since then that I have not kept alive to them; but in the city we have no control. The other thing is roads. The money expended on roads, as this Board will know, in Toronto and elsewhere, is governmental money; it may be raised by taxes in the municipalities but the roads are governmental and the providing of roads is governmental so that the larger railways being favoured by the government are not I submit, in the way Mr. Chrysler and others intimate, to be relieved from taxation; taxes raised by the municipalities are largely for their own use. Mr. MacKelcan has dealt with roads and schools. It was suggested that the railways do not need police protection, and incidentally I want to explain another question there. But I submit that their need for police protection is so much greater than that of the ordinary people, with homes to go to, that they have in addition police protection, to add to that other police protection of their own, men who look after and search for baggage that is lost, and men who guard their property in other cases that is left around loose and is liable to be taken. But I am not aware, and in fact it is not so, that because of these other police that they employ and that they require, they get less police protection than other members of the community, for they require and need more; such at least has been our experience in dealing with those matters in any cases that have come under our observation in connection with the railways and the police. Now if that is so the argument of police protection falls to the ground. Incidentally one of the Board asked me the question, do gas pipes under the ground require protection? I know of two cases where gas has been stolen from pipes under the ground, there is the danger of them being tapped. And also there is protection required in laying, in repairing, in removing and in dealing with them; and there is the injury to the streets caused by laying these pipes or moving them. Gas pipes are in no different position it seems to me, so far as protection is concerned, than any other property. Now, just two things that were mentioned by Mr. Robinson, and then I am through—they are really legal points. Mr. Robinson pointed out in regard to taxation—it would apply to street and other railways perhaps rather than to steam railways—that Mr. Justice Burton, Sir George Burton now, in his judgment in Toronto Street Railway v. Fleming in 37 U C.,

(*a*) 26 Ont. 608; 22 Ont. App. 522. (*b*) 25 Ont. App. 449.

Q.B., at page 124, has used these words, "And it is a satisfaction to feel in arriving at that conclusion"—that is that they were taxable—"no injustice is done as the capital stock of the company in the hands of shareholders is assessed or liable to be assessed." I point out in answer to that that Mr Justice Patterson, in the same judgment, at page 126, says directly the contrary, "Therefore unless the plaintiffs are assessable for land within the meaning of the Act they are not assessable at all." As usual where you find two parties contending, the truth is often midway between, and the section which is now 39 2 provides that the stockholders shall be assessable on income. That must have been what Mr. Justice Burton referred to, which would be, at five per cent., only one-twentieth of the amount that they should be taxed at if we got all; and Mr. Justice Patterson treats it practically as no assessment at all. Under Section 31—the assessment of steam railways—we find going through all the exemptions, not a word said about the exemptions of the superstructure of a railway; and that exemption, if it was intended to exist at all, must be gathered by implication from the language of that section which does not say the superstructure is to be exempted; that being so I submit my contention is reasonable, that it was not intended the superstructure should be exempted. As to the mode of taxation I have nothing to add to what Mr. MacKelcan has said.

Mr. W. H. Biggar: In view of what Mr. Robinson said about the clients for whom he was acting perhaps not appearing again there are other companies interested in this question who are represented by other counsel. I have been hoping that that the Commission would hear them in reply to what has been said, at a later time. It has been said that the Commission would grant three weeks and I have been hoping that other counsel would be heard at the time indicated. If the companies represented by Mr. Robinson do not attend further we would like to be heard at another time. I am speaking now on behalf of The Grand Trunk Railway.

The Chairman: Why are you not ready now?

Mr. Biggar: Because I thought the Board would prefer that the matter should be discussed at the time when Mr. Robinson discussed it, and have the whole question threshed out at once.

Mr. Justice MacMahon: But if he is not ready to go on in three weeks the Grand Trunk and some other companies will be.

Mr. Biggar: Yes. I would like to reply to Mr. Fullerton and these other counsel.

The Chairman: We will not ignore anybody. We will appoint a time further on and you will be afforded an opportunity with the others.

1.45 P. M. Adjourned to 2.15 P. M.
2.15 P. M. Resumed.

The Chairman: Is there any one else desiring to be heard on this subject.

Mr. Hutton: I do not know that I can add anything to what has been said by Mr. MacKelcan and Mr. Fullerton. You know from the few remarks I made on the opening that I am very much of the opinion that the assessment of these companies should be made as going concerns. As I pointed out in the matter of street railways and corporations enjoying public franchise, in the case where they do pay I take it that it is for the franchise they pay, not for the property they have. And, as you say, as the property becomes more valuable by reason of the added value given by people congregating together they pay us more money for the operation of the franchise. While their mileage remains the same their percentage increases as the gross receipts increase. It is not contended that as far as street railways are concerned they are not a monopoly; the monopoly gives them the exclusive right. They have the right to each and every street in the city they have to refuse to exercise that right before it can be granted to another corporation; and in the case of Hamilton they succeeded for three or four years in keeping out a railway that wanted to come in because they controlled the only means of entrance to the city—the only street. I regard to the Telephone Company, they are specially granted an exclusive monopoly for the terms of their franchise in the City of Hamilton on payment of $1500 and certain conditions as regards the number of telephones. In regard to the Gas Company, the monopoly is not stated to be such; but by the very nature of the laying of their pipes in the streets where they cross one another, and their having the exclusive right to six feet on either side of their pipe, it is impossible for the pipes of other com-

panies to get by them at the cross streets without digging six feet underneath them' which practically shuts them out; therefore I say that in that respect, while it is not in so many words a monopoly, it to a large extent operates in that way.

The CHAIRMAN: Why does it strike you they should be taxed more, because they have an actual or substantial monopoly? Why should that affect the question of the amount of their assessment?

Mr. HUTTON: Because they have the exclusive right and have the sole privilege of making the profit.

The CHAIRMAN: How could you estimate what they ought to pay by reason of their having the exclusive right?

Mr. HUTTON: I would think that should be taxed for the amount, and I made the assessment that way for the Gas Company in Hamilton; I made the first assessment on the Gas Company that was made; and it was heard by Judge Snider, and he estimated the value of their pipes at what it cost them; and the succeeding year I assessed them in addition for the hundred thousand dollars for the right I considered they had. I measured by the line with this six feet, and divided the city into acreage, and obtained the average value of the acreage in the city and applied that to the land; that was the way I arrived at the value of the land occupied. Judge Snider struck that out in his judgement, saying that in considering the pipes and assessing them at their full value he considered the benefit they derived from being placed in this land.

The CHAIRMAN: Did he value the pipes having regard to what they were worth in the market?

Mr. HUTTON: No. He valued the pipes at what it cost to put them there; he said he took the iron at $25 a ton, and it cost thirty seven cents a yard to dig the line, and that it cost so much a foot to connect the pipes and so much a foot to lay the pipes. I have the statement shewing how he arrived at it.

The CHAIRMAN: He estimated it something as you estimate the value of a building standing on the lot, at what the building, as a building, is worth?

Mr. HUTTON: Yes, taking the component parts.

The CHAIRMAN: A building in one part of the city is worth as much as in any other part of the city, or in the country?

Mr. HUTTON: Yes, as a building.

The CHAIRMAN: The difference is in the land itself, and not in what is on it?

Mr. HUTTON: The difference in the value is in the land itself because of the location and the collection of the people around it which adds to the value of the land. I may say he pursued the same method exactly in the Bell Telephone Company case.

The CHAIRMAN: You say it is the franchise that ought to be valued?

Mr. HUTTON: No, I do not. I say we are now getting the price of the franchise in the percentage they pay us; that the street railway and Bell Telephone Company are paying us for the franchise, they are paying us a lump sum.

The CHAIRMAN: You are satisfied with what you get from that?

Mr. HUTTON: Yes, for the franchise, that is what they are paying us for.

The CHAIRMAN: What they pay for the franchise that is included in the agreement between the Corporation and the Bell Telephone Company, and the Corporation and the Street Railway Company.

Mr. HUTTON: Yes, of course in addition—

The CHAIRMAN: You think then the judge's mode of valuing is the right mode?

Mr. HUTTON: I do; very much. Of course I do not agree—

The CHAIRMAN: That it is a fair mode?

Mr. HUTTON: I think it is a fair mode, and that it is all I think we should expect. I do not agree however with the non-assessing of personal property. I do not think there should be any distinction between the Corporation and the individual, as I have frequently said. If the individual should pay for his personalty the Corporation should. As regards the steam roads I am very anxious to have the clause in the Act which provides that their land shall be assessed as the adjoining lands—I would like to have that made so that there was no misunderstanding about it. Since speaking here the other day I had a talk with the solicitor of the Toronto, Hamilton & Buffalo Railway, the gentleman who was successful in his case, and notwithstanding the arguments of Mr. Christopher Robinson, who appeared on behalf of the railway he represents, he still

thinks his contention the right one. The Act only says that land shall not be placed at a greater value than that; but the construction of the Act, where the words are used "The same as adjoining lands," means you must take an adjoining lot that is twenty, or thirty, or ten feet below grade as the case may be to correspond with the land in the same condition as theirs. My own opinion is that this is not the construction of the Act at all but that it means to take practically the same quantity of land as the railway has and assess it at the same value as that land.

Mr. FULLERTON: That is the construction his honor Judge McDougall put on it two years ago.

Mr. HUTTON: Yes, and Judge Snider put the same construction on it in a case we had: and one day Judge Snider put another construction on it, and we have not thought wise to appeal from it.

The CHAIRMAN: It is pretty hard to say the judgment is not perfectly right.

Mr. HUTTON: I would not go so far as that, I would say, I do not agree with it. In regard to the steam roads I concur in what Mr. Fullerton and what Mr. MacKelcan have said in respect to the superstructure; and I think the same method ought to be followed with them as regards the assessment of their rails and ties as is followed with the electric roads. Many of our electric roads run through two or three townships but of course they have not the wide national extent that the steam roads have, but still I do not distinguish in method between them.

Mr. MACKELCAN: Mr. Fullerton has handed me just now the judgment of the Supreme Court in the Consumers Gas Company of Toronto v. Toronto, which has reference to the statutory title of the Gas Company. I refer to Mr. Justice Gwynne's judgment at page 458 in 27 Supreme Court Reports.

Mr. FULLERTON: That was adopted by the whole Court.

Mr. MACKELCAN: That carries out what I said with regard to the statutory title of the Gas Company which such companies as the Hamilton Gas Company and the Consumers Gas Company of Toronto have in their charters.

Mr. FULLERTON: I might point out in that same judgment, it might possibly be of interest, that Mr. Justice Gwynne and the Court approved of the judgment, that clause 6, I think it is, exempting the streets, could only apply to streets where the ownership was in private persons, because public streets would be exempt from their very nature perhaps in itself settling to a large extent the old controversy that was so much discussed in 37 U. C. R.; that is also a finding in that judgment in which the full courts concurred.

Adjourned to Wednesday, 21st November, 1900, at 10.30 a.m.

EIGHTH DAY—WEDNESDAY, NOVEMBER 21ST, 1900.

Present:—The same Commissioners.

The CHAIRMAN: Does anyone desire to address the Commission this morning?

Mr. ALBERT DUNCAN, Member of the County Council (Lambton): In appearing before the members of this Commission I desire in a word to make known the position that I occupy. I am here as a representative from the County Council of Lambton not to defend any local interests or to advocate any special reforms in the Assessment Law, but simply to be here as a representative ready to take part and to discuss the various matters brought before the Commission. The county which I represent appreciated the move made by the Local Legislature at the last Session in appointing this Commission, inasmuch as they appointed representatives to be present at this time. I might ask your forbearance if what remarks I make at present should be more general than specific. Up to the present I have been a very interested listener. Points have been brought forth in favour of the present features of the assessment law and also the suggestions made in reference to amending the same law to make it more equitable and just. I was

very much pleased at a former session when the matter was brought up of the mode of assessing companies such as street railway, electric and other incorporated companies, under provincial franchises; and I heartily agree with the view held by Mr. MacKelcan when he offered a suggestion that the best means of securing uniformity and equity in regard to the assessment of such property. The state of affairs that exists now forces one to the conclusion that these suggestions are very reasonable, for instance, take the County of Lambton composed of a number of different municipalities, they appoint an equal number of assessors, and we find the invariable result is that no two, at the very most fifty per cent. of the said assessors agree either on the valuation or as to what that value should be based on. Hence it leads me to think that the best method of assessing property of companies whose property and business traverse through different municipalities would be something like that suggested, namely, so amending the law as to empower the Local Legislature to appoint a provincial assessor or assessors as the case might require, whose duties would consist of assessing the said properties, and an appeal, if any, to be made to some judicial body named by the Legislature, the decision of which would be final. I also go further than this and argue in my own way the advisability of extending and operating this same plan in reference to incorporated companies operating under provincial franchises in cities and other centres of business. This difficulty has in a measure been obviated already by actions of the larger cities, appointing assessment commissioners. Where assessment of property such as I have described has been left in the hands of local assessors it invariably has a tendency to the suspicion at least of corruption and undue influence used by such assessors, and even further than that, undue and corrupt influence practically on the electors who choose the representatives who have the appointment of such officers. The assessment law, like a great many other things, is very often unjustly criticised—not the law itself but the efficiency or rather the inefficiency with which that law is practised and carried out. I think that a large measure of blame rests upon the local municipalities in selecting incompetent, dishonest, cheap men to the office of assessor; and I think that until the municipalities are really alive to the importance of selecting good, capable, sound men and paying them a fair, legitimate salary for the performance of duty well performed, so long will this irregularity and inequality appear on our assessment rolls. These are all the remarks I wish to offer at the present time. I thank you for your attention.

The CHAIRMAN: Is anyone desiring to speak this morning?

Mr. FULLERTON: Mr. Forman of the Assessment Department desires to ask leave to hand in some figures that he has made out that will show what would be the effect on the Toronto Railway of the proposed assessment. Mr. Bicknell stated in his argument that it would mean a reduction of two per cent. on the capital stocks. The figures Mr. Forman has handed me show that the assessment of $6,300 a mile would increase the amount of property assessed $145,925, which at the tax rate of nineteen and a half mills would produce $8,695. This would be the increase supposing the scrap iron basis was done away with. (*a*)

The CHAIRMAN: Suppose that particular law was amended and then the law applied otherwise as it is now?

Mr. FULLERTON: Yes, the increase in the amount of taxes they would pay would be $8,695; but the suggestion of Mr. Bicknell was that it would reduce their dividend on six millions of stock by two per cent., or $120,000.

The CHAIRMAN: How much would the whole taxation payable by them amount to?

Mr. FULLERTON: I have not the figures. This is the increase, this is not the whole. These figures show that Mr. Bicknell, in contending that it would reduce their payments by two per cent. on their stock, and would be $120,000, was wrong by the sum of $111,305

Mr. JUSTICE MACMAHON: The schedule you propose putting in will give the whole of these figures?

Mr. FULLERTON: He will put these out in the statement and give the percentage.

The CHAIRMAN: It is not ready to go in at present?

Mr FULLERTON: It is not; I just have it roughly; I will have copies made and handed in.

(*a*) See Mr. Forman's statement in No. 15 of Appendix A.

The CHAIRMAN: Is there anything else? If not, the subject which has been before us during the past few days will be regarded as closed except so far as the privilege which was announced yesterday to the railway companies and other companies who may desire to have any day or more than one day appointed to hear them.

Commission adjourned at eleven o'clock till 10 30 to-morrow.

NINTH DAY, THURSDAY, NOVEMBER 22nd, 1900.

Present—The same Commissioners.

The CHAIRMAN: Our subject to-day is Exemption from Taxation. I understand there are some persons from a distance. It would be better to hear them first, as they wish to get away.

Dr. A. E. MALLORY (Colborne): We represent the Canadian Fraternal Association, representing eight of the principal fraternal benefit societies of the Province, and we represent also four of the fraternal societies who are members of the Canadian Fraternal Association, and we have our memorial prepared, and I would now call upon Mr. Lee, solicitor for the Association, to present the memorial which we will leave in your hands.

Mr. LYMAN LEE (Hamilton) read the memorial. (*b*)

The CHAIRMAN: Is there anyone present who desires to have any existing exemptions done away with, or any additional exemptions?

Rev. FATHER TEEFY: Mr. Chairman and Gentlemen:—I do not know whether I can place myself before you as a representative, but I would ask, at any rate, that some more time be allowed to consider the question in some of its phases, as members of my own Church, the Roman Catholic Church, have not had an opportunity of forming their mind upon the subject and placing their views upon the question before the Commission. In fact, I speak on behalf of some who have never heard of this Commission and did not know such a thing was in existence. They would be happy to express their views through me if further time was allowed to examine the matter.

Mr. JUSTICE MACMAHON: That is as to existing exemptions on church property?

Rev. FATHER TEEFY: Church and educational.

The CHAIRMAN: There is a difficulty in giving additional time. The sittings of the Commission have been advertised now for a long time, and the various branches of the subject that were to be considered and the days on which they were to be considered were published over the whole country very extensively, and they have already considered this question of giving further time on other subjects, and it is the opinion of every member of this Commission that the time and subjects that we are to take up have been sufficiently widely advertised to make it right for us to proceed.

Rev. FATHER TEEFY: Of course as exemptions are in possession, in some cases they are nine points of the law, I suppose, and therefore we can afford to wait until there is a motion to remove them.

The CHAIRMAN: That is why I asked if there was any change suggested in the existing law, because more properly we ought to hear from them first; and if there is anyone here who desires that the existing law ought to be changed in respect to exemptions or any one or more exemptions now existing by law, now is the time for them to be heard.

Rev. S. S. CRAIG, pastor Zion Congregational Church, (Toronto); Mr. Chairman and gentlemen of the Commission, in reading the reports given of the sittings of the commission I have noticed that the impression prevails among the members of the commission that the subject is one of exceeding great complexity, almost incapable of scientific treatment. I would like to say as a student of political economy for a number of

(*b*) See No. 16 in Appendix A.

years that I cannot help but feel that that is a mistaken idea. Within the sphere of my studies I do not know of a single science the general principles of which are more easily grasped than they are in political economy. That being so, if it is a fact it should lead us to look to the fundamental principles in view in the problem. Now, I think that one difficulty arises here, namely, that the capitalist in seeking exemptions such as would be favourable to himself, overlooks the fact that these exemptions which are favourable to him will be injurious to labour, if we will observe the universal fact that interest and wages always go up or down together. Wages never go up while interest is going down; nor does interest go down while wages are going up It cannot possibly do so, not only from the scientific standpoint, but as we look out upon what is actually occurring in life we see that universally interest and wages go up and down together. Now, that being so, is it not a great mistake for the capitalist to seek for himself exemptions at the expense of labour? Is it not a mistake for him to suppose that any increase in wages will be detrimental to his interests? I hold on scientific grounds that the increase of wages under normal conditions is the necessary antecedent to the increase of interest. Then ought not the capitalist and the wage-earner all work harmoniously in the matter? Now coming to the question of exemptions, just a few words. I hold that there are only two possible exemptions—there cannot in the very nature of the case be more than two. Why so? Because if we analyze the factors entering into the production of wealth we find that there are only two, one passive and the other active, namely, land and labour. You cannot get any other factor into the problem at the basis for this reason, that capital, which is supposed to enter in as a factor, is simply stored-up labour. Orthodox political economists themselves have defined capital as stored-up labour. Now that being so, capital is simply a form of labour; therefore there are only two factors engaged—land and labour. That being the case, does it not follow that if there are any exemptions at all they must be either exemptions of the tax on the land value or exemption of the tax on labour? Because it does not matter whether you put the tax on personalty, whether you put it on income, on capital, or on wealth, it necessarily and inevitably fall sback upon labour. No matter where you put it, it falls upon labour. Then the question comes, how far should we exempt either one of these? To-day approximately we are raising about one-half of our taxes on land value and the other half on labour, but as an actual matter of fact we are raising it nearly entirely from labour; for this reason: that a man who owns land that he can rent out to others it enabled to pay his taxes as a rental out of what he gets from labour, and therefore actually does not pay taxes at all. The idea on the part of many seems to be this: to get some advantage out of the taxation laws, and the laws of taxation that will enable them to derive a pecuniary benefit neither from wages nor from interest. And then what? To get a pecuniary benefit from monopoly, that is from a non-compensating monopoly. Now we hold—and we hold it on moral grounds as well as on economic grounds—that any money a man gets by the way of appropriation of land value, he gets something for which in the nature of the case he can give absolutely no return. He can give no return because as a landlord he creats nothing, he produces nothing. Now that being the case it seems to me that the only just exemption, the only just and the truly just exemption, must be the entire exemption of labour and of labour's products. That means the exemption entirely of capital in all its forms, of wealth in all its forms, and putting the whole tax on land value. That cannot be unjust to anybody from the standpoint of true justice if we look at justice from the standpoint of the civil law, and see if what the law enacts is justice. Justice is not a moveable thing, it is not a fluid thing; it is as fixed as the laws of gravitation. Just one word more; it seems to me that if we put the tax on land value it would bring a vast amount of land in use that is now held for speculative purposes. Go down in part of the city, on Yonge street or Queen street and the most valuable sections of the city, and you can find valuable sites there that are practically not used at all; a very poor building upon them, whereas the opportunity would take a building of ten times the dimensions. Now that is practically land held out of use. Not only so, but as a minister I would be strongly in favor of the taxation of church property, of church lands, on this ground: take an illustration; we have noticed in the papers lately the discussion in Knox church of the probability or propriety of selling out that property. Now they are asking $160,000. Their building is not worth more than maybe $25,000, therefore they are asking to be able to appropriate from the people who created the value—because it is the people, the presence of popula-

tion and its organization, it is they who make this land valuable—now they are at present asking and going to take advantage it may be of our unjust taxation laws. to take $135,000 out of the people for which they propose to give only vacant land. We are told lately in the papers, in an American paper I noticed it, that Mr. Wanamaker of Philadelphia two years ago bought a church property for $400,000, held it for two years and then sold it for $500,000, making a clear gain of $100,000. We consider that unjust. Not only so, but if the tax were entirely on the land the increase of wages of the labouring classes and the increase of interest to the capitalist classes would enable the church to pay her way far better than she is to day—take it off all capital and labour and put it entirely on the land. Mr. Shearman remarked same years ago—and we know he is a very able statistician—that sixty-five per cent. of the land of the United States would defray the expenses of the country, municipal, state and federal—and he surely is an authority on the subject. I believe that the land value of this country would more than meet all legitimate expenses of the country. I thank you, Mr. Chairman and gentlemen, for your hearing.

Mr. W. A. Douglas, B. A.: Mr. Chairman, if any one has to go through the Assessment Act, as it has been my duty to go through it again and again, he will find there a most extraordinary muddle. It commences with the assertion which I have heard expressed in this conference again and again, that we should tax wealth wherever we find it, under every form, whether it is really actually existing tangible wealth, or whether it is simply the evidence of wealth; whether it is a farm or whether it is a mortgage on the farm; and in one Province in Canada they actually take and tax the farm, and then if the poor unfortunate fellow has a mortgage on the farm they put another tax on it. Now I would like to examine a few minutes that doctrine that we should tax everything that we can call wealth. Not only did the Legislature proceed on that assumption, but then they shrank from it. If they carried it out thoroughly they came to the conclusion they could not proceed and that the public would not stand it.

The Chairman: That is a little declamation.

Mr. Douglas: I am just coming to the proof of it, because they tax a house but they dare not tax the furniture; and when they come to a farm they tax the barn, the house, the well, the orchard, but they won't tax the grain that is raised on the farm, or the live stock, and when the grain is in transit they won't even tax it there, so that while the proposition was commenced with to tax everything in sight, these exemptions are made and some of them are very, very wide. Now when we examine that doctrine of taxing everything we can find—houses and machinery and furniture and everything that the hand of man can produce that we can call wealth—it is just equivalent to the doctrine of a man that is going to put a burden on his horse, and he said "I must not put it right over his back, over his spine, where the centre of gravity is, but I must hang some on his forelocks, some on his mane, some on his tail, &c; so we exempt this and the other, and that is our theory of taxation. A gentleman told us that if we concentrated all the tax in one place that would be a revolution, and that it would raise the rate up to seven and a half per cent. He made no further investigation. Now, it would not increase the tax one dollar. It would change the rate, it would change the method of distribution. I can put a coat on my back and wear it all day and not know that I am wearing it, but ask me to distribute it out, and carry it at the end of my arm, I cannot do it for ten minutes. Unfortunately by our present method of taxation it appears that our burden instead of being placed where it will bear equitably, we take and put it as if we were asking a man to carry a burden at the end of his arm. We have already exempted furniture and grain and livestock, $700 of income, and we have shrunk from taxing churches. It is important that we should ask what is the exemption, and when is a man exempt? A few years ago we had parties advocating the abolition of exemption in this city, and the idea that they had of exemption was this, that unless you could find every particle of wealth possessed by every man and put a tax on that, that man was exempt; consequently when a farmer was taxed on his clearing and conveniences and barn and house and orchard and well, then because a tax was put on his grain they said he was exempt, whereas a speculator beside him paid only one tax on the land value. They said, "Because this man only pays on one value and the other man pays on seven or eight values, therefore he is exempt because he don't put it on the ninth value." That was the attention they gave to it. What is the one fact that is patent is

society to-day? The one fact that everybody can look at and that cannot escape us if we open our eyes in this city and every city in civilization—and it is only in barbarism where you cannot find it—we find that one portion of society does all the work, they manufacture the goods, they carry the produce, and another portion can walk around smoking cigarettes.

The CHAIRMAN: You are wasting our time completely. It is pure declamation. There is no argument in it.

Mr. DOUGLASS: Is it not a fact that I am stating the most patent fact in our civilization to day—that one portion of society does all the work?

The CHAIRMAN: It does not help us the slightest.

Mr. DOUGLASS: I must begin with this one fact, and if we do not agree on that fact, there is no use in my speaking more; if we put the whole burden on one portion of society—

The CHAIRMAN: I must repeat that that proposition does not help us in the slightest degree, when you make a general proposition like that.

Mr. DOUGLASS: I don't care whether it is a general or a specific proposition, isn't it true? And if it is true, we must find out what is the exemption. Now if there is a process in society whereby I can escape all my share of supporting society I am exempt, and the other portion of society then must bear all the burden of government. That is the one fact to which I want to call attention, and I want to point out how it is we can take and distribute this taxation so that we will get rid of that continued exemption. Now, if I am at liberty to proceed upon that line of argument I shall continue, but if this is not relevant to this discussion I shall simply have to cease.

The CHAIRMAN: You are intelligent enough to understand the distinction, Mr. Douglass.

Mr. DOUGLASS: I cannot tell exactly what is passing through your mind, but I think I am talking now quite relatively to the subject of exemptions and how we can get rid of exemptions and we can put the tax so that no portion of society would be exempt.

The CHAIRMAN: Well, proceed.

Mr. DOUGLASS: Let us take one or two cases and see what exemption means. Here are two men come to this country; they both take up separate portions of land. For some years they work them, clear their land, raise crops, go to the market with them, and for years they continue that way and do a service for society; but on the one farm there begins to commence accumulation of population, and as that population increases this farmer stops toiling; he says it is no longer necessary for him to raise grain: he divides up his land and a town grows there, and there comes a value that he did not create, and after a while that town has become more populous and it has become worth $1,000, $10,000 or $1,000,000 an acre, and he ceases toiling. There comes a value, a particular value, and now although he is assessed, it grows and grows as we see in value, and then because his name happens to be on on the tax roll we say he pays taxes, and the thousands of people who are working around there to sustain everything in society, we are informed by some people that they are not taxed because their names are not on the tax roll. We had a condition of slavery on this continent some years ago. The slave master's name appeared on the tax roll; he was said to pay the tax—the man who did nothing; and the slaves never had their name on the assessment roll, they were classed by some persons as bearing no burden. Now under our present organization of society we exempt one portion of society perpetually; we give them the power not simply to have all the enjoyment of government but all the enjoyment of luxurious homes and the advantages of civilization, and we relieve them apparently from burden; and every man who has to work eight or ten or twelve hours a day, those are the men who are taxed. If we are going to adjust exemption as we should, we should proceed in the way the Legislature has already commenced, by removing it from live stock, from $700 income, from furniture, and keep on that way removing and removing the taxation that falls more and more on industry, and then concentrate it upon those peculiar values that come from the growth of organization of society, then we will distribute our taxation so that we will have no person exempt, every person will have to do his share for the support of society.

Mr. P. W. ELLIS: Mr. Chairman, I appear on behalf of the Canadian Manufacturers' Association, the members of which are interested in exemptions of various kinds through

the country, and the Toronto members of the Association have discussed the matter very fully, but before placing their views before you, they are communicating with the members throughout the Province of Ontario, and my presence here this morning is to ask you if you will be willing to accept from us at a later date our views in writing after we have received the views of our members.

The CHAIRMAN: We will receive anything in writing that you have to put in. The awkwardness of that is that it ought to be heard in the open commission so that anybody who had any views about it could answer the views you put forward if they desire to do so.

Mr. ELLIS: The Toronto members met and discussed it very fully and arrived at a conclusion.

The CHAIRMAN: You might state what those conclusions are, perhaps.

Mr. ELLIS: I can speak from the views expressed by the Toronto members, but before making it the express views of the Association an objection was advanced that they were only the views of the Toronto members, and that outside members would like to be heard, and that you would like to hear them through a written statement of the case.

The CHAIRMAN: We will be very glad to hear your own personal views.

Mr. ELLIS: The feeling of the meeting was that the tax should be removed.

The CHAIRMAN: You would rather not make a statement at the present time?

Mr. ELLIS: Yes, I would rather present the views of the Association rather than my personal views.

The CHAIRMAN: When would you be prepared to do that?

Mr. ELLIS: I think in about a week's time.

The CHAIRMAN: I think we will have to accede to your views in that respect. There should be no time lost. We will name this day week, by which time your memorandum ought to be in at the latest.

Mr. ELLIS: It will not be later than that, perhaps earlier.

Mr. FULLERTON: What opportunity will be given for criticizing that memorandum or dealing with it by those who might not agree?

Mr. JUSTICE MACMAHON: Mr. MacKelcan and yourself as representing the Municipal Associations should each have a copy to consider it.

The CHAIRMAN: There will have to be an opportunity for discussing it. Mr. MacKelcan, what does the Municipal Association say about exemptions?

Mr. MACKELCAN: I think possibly it might perhaps be more convenient for the Commission to consider the different classes of exemptions seratim rather than deal with the whole subject and get it somewhat mixed. It would be better to thresh out each particular class of exemptions, it seems to me, by itself and hear from all those interested pro and con, when one subject of exemptions is dealt with, and then pass on to the next.

Mr. JUSTICE MACMAHON: What is the section?

Mr. MACKELCAN: It is section 7, which contains 29 sub-sections, and there are also one or two other sections in the Act which contain exemptions—section 39—the first sub-section. In England property belonging to the Government is not liable to the municipal taxation, but it is valued, and I believe that Government votes a sum each year for local purposes, which is the same in amount as would be the rates chargeable upon this property if it were assessed in the same manner as the property of private persons. This I find in a book upon Tax Exemptions, compiled by the Chairman of the Exemption Committee of the Toronto City Council, in January, 1878. I believe that the Dominion Government have acted upon that principle in granting an amount of $60 000 a year toward the maintenance of parks and other public works or public properties in Ottawa, and so have in a measure recognized that principle which has been acted upon by the British Government. I may point out the difference between the law of Great Britain and the law here in that respect, and suggest the subject for the consideration of the Commission. In Ottawa I believe there is a complaint that where property is temporarily used for deposit stores, etc., by the Government, it temporarily escapes taxation during the years it may be so occupied by the Government, and it is considered by the representatives at Ottawa, I think, that that property should not be withdrawn from the reach of the assessor while the Government are temporarily using it. It does not perhaps interest any other municipality but the city of Ottawa.

The CHAIRMAN: It is beyond the scope of this Commission. We have no authority

to report on any resolution of the Dominion Government on the subject of municipal taxation.

Mr. MacKelcan: I call the attention of the Commission to this clause while they are dealing with the subject of exemptions. Possibly some suggestion may be made in regard to it.

Mr. Justice MacMahon: That is, to make a suggestion that equitably, at all events, the Government ought to intervene and pay their fair share of taxation?

Mr. MacKelcan: That is practically adopted in England, yes.

The Chairman: Do you suggest that under the British North America Act the Province could tax Dominion property?

Mr. MacKelcan: I don't think we could. It has been held otherwise by the Supreme Court.

Mr. Justice MacMahon: And the proceedings of the Ottawa Government show it was just made as a gift; there was no liability admitted in any way.

Mr. MacKelcan: Made as a gift, just as in England.

The Chairman: The Provincial law exempted everything, so that under the existing law they could make no demand upon the Dominion; but the question I asked was whether you thought, under the British North America Act, the Province could tax Dominion land?

Mr. MacKelcan: Of course the decision in Leprohon vs. Ottawa (*a*) was——

The Chairman: It did not relate to the land at all?

Mr. MacKelcan: No; but they had no jurisdiction to tax the salaries of judges as they issued from the Dominion, and it would be an interference with the Dominion or National Government.

The Chairman: That might be so, but it might not be so in regard to land under the British North America Act. Is it or is it not so?

Mr. MacKelcan: It seems to me that that land would be under the local jurisdiction of the Dominion Government authorities.

The Chairman: That is so, but the Act might be large enough to enable the Province to tax land. You do not suggest any alternative in this first section?

Mr. MacKelcan: I do not; I only throw out the suggestion. If that first subsection exempting the land of the Dominion Government were repealed, then the question would arise whether, notwithstanding its repeal, the Provincial Legislature had power to tax the land belonging to the Dominion Government. At present they are expressly exempt, so that that question does not arise. The next sub-section to which I will refer is Number 3. In the city of Toronto, which makes all its improvements in streets and sidewalks upon the local improvement plan, the exemption granted by this section becomes only partial, as those portions of Toronto city taxes form quite a large part of the annual taxation. In municipalities where the local improvement system has not been adopted, much less revenue is derived from lands belonging to churches than is derived in Toronto, as they are not able to levy any rate upon those lands for improvements, which are paid for out of the general fund, though Toronto, by making those improvements out of the funds raised by special assessment, is able to reach much of the land belonging to the churches for purposes of municipal taxation. The Municipal Association, at a very largely attended meeting held some years ago, passed this resolution:

"That the Legislative Assembly of Ontario be petitioned to amend the Assessment Act, by enacting that all exemptions from assessment regarding real property in the Assessment Act, or in any Act amending the same, or other Act, be abolished, except as to church buildings, not including the grounds on which they stand, and public and high schools and collegiate institutes, and grounds connected therewith, not exceeding half an acre, and except universities and colleges, with grounds not exceeding four acres, and public hospitals and grounds not exceeding five acres, orphan, poor and lunatic asylums, with grounds not exceeding one acre, and free public libraries, with the grounds on which they stand, and cemeteries, municipal property and property vested in or held by Her Majesty, as exempted in Section 6, sub-section 1 and 2, of the Assessment Act."

The Chairman: Is what you have just read in the report you have already given us?

(*a*) 2 Ont. App. 522.

Mr. MacKelcan: No, it is a much earlier meeting.

The Chairman: Does it express your present view and the present view of your Association?

Mr. MacKelcan: I think I may say that it does. The date of it is 1884. They have expressed their views in more general terms to-day, but it covers the same ground in that respect. I might add that an instance has been mentioned here to-day of a valuable property owned by a church which has now become very much more valuable than it originally was by reason of the building up of the city all around it, and which probably retards the growth of the city in that particular portion of the town, and if that land were taxed——

The Chairman: You are speaking of Hamilton?

Mr. MacKelcan: No, I am speaking of the instance cited this morning of a valuable property on Queen Street in Toronto, where probably the extension of the business portion of the city would not be retarded if that land were liable to be assessed at its real value. I cannot see any justice in withdrawing from its liability to pay all the debts of the city, land which is purchased for church purposes, assuming that a large debt has been incurred for municipal purposes, the security for which is the taxation that can be raised upon the property situated within the limits of the municipality. If, by being purchased for the erection of a church, a valuable tract of land is withdrawn from liability for that debt, that is something contrary to all known principles of law—that a security once pledged can by a change of circumstances without the consent of the pledgee be withdrawn from the lien under that security.

The Chairman: Is that so? The pledge is the tax payable by that property according to law?

Mr. MacKelcan: According to law, yes.

The Chairman: And according to the existing law when the money is loaned church property is exempt. There is no injustice in that, is there?

Mr. MacKelcan: Well then, property that is liable at the time the debt is incurred becomes withdrawn from liability by reason of its being required for churches. Possibly you are perfectly right in saying that a person that takes the security contemplates this possibility arising under the law, but it seems to me it would be fairer, and it would silence a great deal of complaint that is now made of the exceptional privileges granted to churches, if the land remained liable for assessment just as it was before being acquired by them, while their buildings would be held exempt from ordinary municipal taxes or from any municipal taxes.

The Chairman: You mean to say to tax the land according to its value after it was withdrawn?

Mr. MacKelcan: According to its current value.

The Chairman: But to exempt the buildings?

Mr. MacKelcan: Yes, just the same as railway land, value the adjoining property, and on the principle of section 71 of the Assessment Act that land should be assessed at the same general average value as the land in the neighbourhood.

The Chairman: Omitting the superstructure?

Mr. MacKelcan: Yes. The Legislature have recognized the justice of taxing land for local improvements, and the result of that is that land occupied by churches is assessed in some municipalities and not in others. That is to say, as I pointed out a short time ago, the municipalities where the building of streets and the making of other public improvements is carried on under the local improvement plan altogether, then these church lands contribute, but where the municipality has not adopted that plan then they do not contribute at all; but if the lands were made liable for all classes of taxation it would make a more uniform rule of assessment for taxation throughout the different municipalities of the Province. I dare say much can be said on that branch of the subject, and I would rather not say anything more on it until perhaps somebody has been heard on the other side of the question. I am just submitting it for consideration as one of the inequalities the Legislature will have to deal with as the result of the report of this Commission.

The Chairman: Does anyone else desire to speak on this question of exemption of places of public worship and lands used in connection therewith—churchyards and burying grounds?

Mr. FULLERTON: I have a few words to say on that, but there are some statistics that I wanted to get that I have sent for, and I didn't want to speak until I had them in hand.

The CHAIRMAN: Mr. MacKelcan, do you make any distinction between land used for universities, educational purposes—do you propose to distinguish between such lands and lands occupied by churches?

Mr. MACKELCAN: Yes, I would say in general terms upon that point that those lands should come under the same general rule as land occupied by churches except where it is the property of the municipality. Of course there is no use taking money out of one pocket and putting in another.

The CHAIRMAN: Public schools of course are the property of the municipality; of course it would be useless to tax them?

Mr. MACKELCAN: Yes.

Mr. WILKIE: Would you allow the ordinary procedure to take place as to burying grounds in case of non payment of taxes? Do you propose to tax burying grounds?

Mr. MACKELCAN: I have not said anything about burying grounds.

Mr. WILKIE: They are covered by sub-section 3.

Mr. JUSTICE MACMAHON: Mr. MacKelcan did not refer to those—he did not desire a change. You wanted a change made in respect of churches to the taxation of the land freeing the superstructure and the buildings?

Mr. MACKELCAN: Yes.

Mr. WILKIE: Therefore if the taxes were not paid on the land, what would follow in the case of a burying ground, a churchyard?

Mr. MACKELCAN: I did not say anything about churchyard burying grounds.

The CHAIRMAN: Most frequently that is part of the ground on which the church stands.

Mr. WILKIE: It is in many country towns, take St. Catharines for instance.

Mr. MACKELCAN: Well, possibly the view that is taken of any portion of that property used for burying grounds should be exempt from taxation of any description.

Mr. JUSTICE MACMAHON: It is so held in most cities. I notice that even where cemeteries were the property of corporations they were free from taxation.

Mr. MACKELCAN: I might say in relation to churches that those lands are now subject to local taxation and therefore treated differently in different municipalities. Where all improvements are made on the local improvement system those lands are taxed, but where improvements are made out of the general rate the land escapes taxation.

Mr. WILKIE: In a local improvement the church would have an opportunity of objecting to the expenditure necessitating the local taxation; they would not in the other case.

Mr. MACPHERSON: I am sorry I was not here sooner. I would like to ask if you propose to exempt the church buildings?

Mr. MACKELCAN: Yes, we don't ask to have them taxed.

Mr. MACPHERSON: On what ground do you exempt them?

Mr. MACKELCAN: Possibly, on principle, they should be taxed no doubt, but public sentiment would be opposed to it in all probability.

Mr. MACPHERSON: We are not looking for public sentiment, we are looking for justice.

Mr. MACKELCAN: It is no use to ask for what there seems to be no hope of getting.

Mr. JUSTICE MACMAHON: I suppose one reason for that would be that if the buildings were taxed according to the value, no church body would think of putting up a magnificent structure which would be a credit to the city when it was going to be a drain on the resources of their congregations.

Mr. MACKELCAN: I think public sentiment, public opinion is not in favour of taxing the buildings. I think that reason and justice and equality and uniformity of method of taxation should leave the land liable to be taxed just as it was before the church buildings were erected upon it.

Mr. JUSTICE MACMAHON: If the Temple Church in Hamilton were taxed I suppose they would have to sell it.

Mr. MACKELCAN: It is just possible it may be taxed.

The CHAIRMAN: Does any one else desire to address us on this exemption or any other exemption?

Mr. GEORGE J. BRYAN: May I add a word or two along the line that Mr. MacKelcan has been speaking? Regarding the taxation of church and educational property my opinion is that a solution of the difficulty will be arrived at by adopting the suggestion of the Municipal Association which proposes to place a tax upon the value of the land upon which those buildings stand. I think from the discussion of the question in past years, from the sentiments of the Province, that the taxation of buildings and land together of those institutions will not be tolerated. I doubt very much if any Act that could be introduced into the Legislature would pass, but I believe if the Commission did recommend that a tax be levied upon the value of land alone it would meet with the approval of the Legislature. In the city of Toronto the assessment levied in 1897 on the land of church properties was $1,431,681, and the land of schools was valued at $2,684,443—a total amount of $4,116,124. I believe that the present valuation runs a little over five millions of dollars, that is of the land value alone.

The CHAIRMAN: That is churches and educational institutions?

Mr. BRYAN: Yes, semi public corporations.

The CHAIRMAN: The exemptions amount to about five million dollars in the city of Toronto?

Mr. BRYAN: Yes.

Mr. FLEMING: We will give you the exact figures of that; I am having them prepared. (*a*)

Mr. JUSTICE MACMAHON: Does that include universities?

Mr. BRYAN: I do not know that.

Mr. FULLERTON: The universities, Normal School and seminaries of learning, the value is $2,684,443 for 1897; the value of the buildings $3,005,465, making a total of $5,689,908; and for 1899 the amount is $5,670,377. These figures include the public and separate school buildings

Mr. BRYAN: In my category of figures, however, I did not include the buildings that have been constructed by the aid of public moneys, public schools, universities, &c. I referred to those institutions that have been created through the endeavours of private individuals, out of which individuals as stockholders derive more or less income. In regard to the unwisdom of taxation upon the buildings, I refer you to the fact that several years ago a delegation appeared before Sir Oliver Mowat in which the clergymen present took the ground that to levy taxes upon church buildings would impose a very great burden upon the trustees of those institutions. They further said that to impose such a tax would be to destroy the incentive to building fine beautiful structures, that to-day the architecture of those various church buildings was something which was helpful to the young, that it was an encouragement to them to witness those large beautiful structures, that we should have more of them if it were possible, but that if a tax were imposed there would be a lesser number of those buildings in existence. The fact that there are so many existing to-day in the city of Toronto is accounted for because of the fact that there is no fine upon their production. I do not know that there is a great deal of ground to be gone over in this respect. The point has been very well made that there is a great deal of ground to be gone over in this respect. The point has been very well made that an easy solution of this difficulty—which is undoubtedly one that has given considerable complaint in years gone by—is that we can more readily dispose of this question by recommending a tax levied solely on the value of the land they occupy; furthermore that on the principle that the value of the land which the churches and educational institutions use is a value that has been created by the public, and that the value of the buildings which they occupy are values that have been created by individual labour. That is the answer to the question which Mr. MacPherson submitted to Mr. MacKelcan, which he was unable to answer. On that ground alone there is a very good reason why that suggestion should be adopted.

The CHAIRMAN: How would you estimate the value of such ground?

Mr. BRYAN: Just the same as we value the adjoining lands.

The CHAIRMAN: That does not answer the question. The adjoining land is rented

(*a*) See No. 17 in Appendix A.

perhaps, it is producing an annual rent which is a gauge by which you can gauge the absolute value of rented property; but church ground is acquired when it is cheap, many years ago, for example; churches build upon it, it has never brought in any rent, and never will.

Mr. BRYAN: But that has nothing to do with the question.

The CHAIRMAN: At what rate would you tax it? Would you tax it as if it had been built upon and was producing rent?

Mr. BRYAN: Exactly. Tax it at its present value as gauged by the value of adjoining properties.

The CHAIRMAN: It is not used for profit of that kind and never can be; would that make no difference in your view?

Mr. BRYAN: They are not using it for pecuniary profit, sure, but they are holding out of use land that might be devoted to pecuniary profit.

Mr. WILKIE: There is no profit accruing to anybody.

Mr. BRYAN: Profit or no profit, the government of the country has nothing to do with what an individual uses his land for. You are simply using so much of the public property.

The CHAIRMAN: Oh no, you are not using so much of the public property at all.

Mr. BRYAN; I refer to it in the larger sense—the land being the property of the people.

The CHAIRMAN: The Crown from time immemorial has adopted a policy of selling land—not letting it, but giving it absolutely to the person who pays for it.

Mr. BRYAN: With the stipulation that taxes shall be imposed upon it. That is the burden in the deed, that land shall bear its pro rata taxation, and it has been taken out of the category of common land and used by churches for their particular purposes.

The CHAIRMAN: Is it unjust to take out of the category of taxable land, land which does not produce pecuniary profit to anybody?

Mr. BRYAN: Here is a plot of vacant land to-day; it bears a rate of taxation equally with land that is already used in the immediate locality.

The CHAIRMAN: That is obvious, but it is not necessarily a reason.

Mr. BRYAN: Well, along come a number of individuals who purchase that land for the purpose of building a church. Immediately that is done, under the law that land is exempt. In my opinion that is not fair. That land should still continue to be taxed. The instance quoted by Mr. Craig in reference to Knox Church property is a case in point. That land as it stands on Queen street to-day occupying a number of stores is practically exempt because it is church property; is that not so?

Mr. FLEMING: It is exempt.

Mr. BRYAN: Notwithstanding the fact that large rents accrue from the use of that land going into the coffers of that church.

The CHAIRMAN: No.

Mr. BRYAN: Is that so, Mr. Fleming?

Mr. FLEMING: No.

Mr. BRYAN: It does not apply to the land on which store buildings are?

The CHAIRMAN: If they are deriving a pecuniary profit from any land there under leases of course the land pays taxes.

Mr. BRYAN: They pay local improvement taxes.

Mr. FLEMING: Certainly they pay all taxes.

Mr. BRYAN: But, sticking more particularly to the point, the land on which Knox church stands and the land immediately adjoining it which is unoccupied to day, does not pay taxes other than the local improvement tax. To-day they purpose selling that land for an increased profit over what it was valued at some years ago, which aggregates about $135,000 Our contention is that the portion of that value which has for many years escaped taxation should be made liable for taxation, and justly the trustees of Knox church should pay into the city treasury of Toronto their share of the taxation out of the sale of the land which they purpose making.

The CHAIRMAN: Suppose some other denomination buy the church for a church and pay this sum of money for it?

Mr. BRYAN: They should be taxed for it.

The CHAIRMAN: Although they make no money out of it?

Mr. Bryan: Although they make no money out of it they should be taxed for it. A vacant land owner makes the same contention. I expect a number of speculators will appear before the commission who will make the statement, "We own so many feet of land; we are deriving no benefit, no income from it, therefore we should pay no taxes," —notwithstanding the fact that this city has constructed public improvements, good pavements, light, police and fire protection. The value of all these improvements has increased the value of every foot of land in this city. The owner of the land is able to sell it for more than he could sell it if these improvements did not exist. The value of these public improvements has been reflected in the value of the land, therefore justly every foot of land that this man has, whether held out of use or whether it is used, should pay its portion of taxation towards the expense of municipal government. That is the contention. The vacant land owner has just as much right to come here and ask for entire exemption as any church institution in the city of Toronto or elsewhere. That same argument would hold good in the case of the vacant land owner. I think in the case of educational institutions, some of which might be mentioned, even assuming that churches generally do not derive any pecuniary gain, that some of those institutions can from the incomes derived pay toward the taxation of the community. I think the figures which Mr. Fullerton will submit will show that in a number of cases they are all well able to pay taxes. I think I have stated as far as I dare speak on this matter.

The Chairman: You were going to say something about educational institutions?

Mr. Bryan: I said in many cases it can be shown that they derive pecuniary profits, practically private corporations, that they derive income from the school, and that they should be properly levied upon for the taxation of the community like other individuals.

Mr. Christopher Robinson, Q. C.: I have been conferring with Mr. Lynch-Staunton and he is endeavouring to ascertain what prospect there is of our being able to come to some conclusion and to some such proposition as we are able to make before the commission to-day, and a committee has been appointed as representing these companies and are doing their best to get the necessary information to enable them to do that, and we should be able to say at the end of three weeks whether we are in that position or not. If the commission will allow it to rest in that way we will let you know at the end of the time whether we are in a position to do so or not, and if so, we will take advantage of the opportunity kindly offered to us to appear and say what we have to say.

The Chairman: And sooner if possible?

Mr. Robinson: And sooner if possible.

The Chairman: Three weeks from Tuesday. We may perhaps hear the Grand Trunk Railway earlier, because Mr. Biggar was here and requested that.

Mr. Robinson: That would not affect the other companies, because we have said what we desire to say in regard to steam railways.

Mr. George Wellings: Mr. Chairman and Gentlemen of the Commission,—I presume the object of this Commission is not so much to find out an expedient as to adjust the proper method of taxation that would be the best for the uplifting of the whole people of any community, or rather the Province of Ontario. That being so, I think it would perhaps be as well for us to see for a little the effect of taxes levied in England, for instance. Perhaps it is generally known that land held out of use in England pays no taxes whatever; that they still pay upon the assessment of William of Orange, 1692. The assessment of the land was taken in 1692 and fixed for taxation, therefore there is no other assessment, and mines and this sort of thing discovered since that assessment pay no taxes whatever. That, of course, is only the land owner, and everyone who has lived in England and watched and studied that country for a little time would notice a gradual pressing down of the populace up to, say, the commencement of this century. But for this system of land tenure in England and exemption from taxation there it would not have been necessary to have had the law which has stained the statute book of Great Britain for so many centuries since Queen Elizabeth—that is commonly called "The Poor Law." We find that it became so necessary to secure the people something after the many laws had been passed by this land-owning class—one, for instance, that the Magistrate should fix wages at half what would support life in 1796—and all these were simply because land being held out of use, paying no taxes, enabled the land owner to oppress the people and to force two-thirds of the land of Great Britain out of use. In Scotland the amount of land held out of use is still greater in proportion, I think about

four millions to fourteen millions unused ; but coming down to our present taxation, say the city of Toronto, for instance, I do not think people complain of the amount of taxes collected. I think that the people who have noticed and investigated this thing are surprised, astounded, at the low rate of taxation in this city. For myself it has always been a marvel to me how on earth the city is run so economically, so cheaply, because you know taxes are cheap or dear, the same as a coat, according to what you get for them. For instance, the amount of taxes collected in the City of Toronto is about three millions of dollars. A 26-mill rate on the real estate alone, including the exemptions of land and buildings, would furnish a sum greater than that three millions, I believe, or thereabouts anyway. Now, you have only to see for one minute what is got for that money to see whether those taxes are high or low, cheap or dear. These are some of the things which you get for a 26-mill rate—which is but fifty cents per week on a thousand-dollar assessment—sidewalks, roadways, sewers, water, street lighting, fire protection, police protection, public parks, free libraries, Board of Health, hospitals, free schools, free school books, slate pencils, street cleaning, water, band concerts and various other things, all for fifty cents a week. and your back lane cleaned out besides. Now, you could not possibly think of the things being done by an individual at fifty cents a week on a thousand-dollar assessment ; so it is evident that the assessment is not high. And yet almost every person that has been here is complaining about these taxes. We want some method of assessment by which the people will not complain, and I found on reading the short reports that are in the paper that the people that have been here have complained not so much as to the rate of taxation as to the method of collecting.

The CHAIRMAN : We are not on that to day. The subject of discussion to-day is exemptions.

Mr. WELLINGS : I am just going to point out some reasons. Take Gooderham's Grove, for instance, a piece of land on Queen Street East, 7 20-100 acres, assessed for $1,700 per acre, about $7 a foot if cut up in building lots. The land has no improvement. The land opposite that is improved, is assessed for $18 per foot. Now, there is that large amount of land under the two-acre law that would be assessed as farm lands ; that large amount of land is being exempt from its just portion of taxes. We have another piece, Leslie's nurseries, 17 3 10 acres, is assessable for $700 per acre, about $3 per foot, if cut up, and the land opposite is assessed for $16 and $18 per foot. Now, there is a piece of land owned by the Wagstaffs, 8 8-100 acres, assessed for $350 per acre, about $1.50 per foot, and that is opposite the nurseries, a little west of them on the north side of Queen street. So that there we find that as soon as the land comes to be used in small quantities the taxes at once go up to its selling value ; but no one would pretend that Mr. Gooderham would sell the nurseries for $1,700 an acre. You could not buy it from him for that money, and yet he is assessed for that, of course, under the law The question has been raised here as to the taxation of Knox Church property. I heard the Chairman say that there was no revenue got from that, and therefore it would be unjust to tax that. But I contend they are getting a revenue from it. For instance, they are going to sell it now for so many thousand dollars more than they purchased it for, therefore that is an equivalent to revenue for a period of years. Certainly it is. They get $130,000 They are going to sell it for so many dollars more than they paid for it. Now, take that over the years to the present time and it is equivalent to so much per year income from that land, so that in that case they are getting a revenue from it. As to burying grounds, of course they should pay, because they are a financial institution. When anyone wants to bury any person there they have to pay, and I think if there is any revenue from this land they should pay. A burying ground is a revenue-producing piece of land.

Mr. WILKIE : But there is no profit to the owners?

Mr. WELLINGS : It is the Church that derives benefit from it. Of course we all know that Church lands' value was made by the people, just as the other lands were. Another reason why I think the two acre assessment clause should be abolished is this : It is often put forth by people who hold vacant land that vacant land requires no fire protection, no police protection, won't run away, no one can sell it, etc. But let us examine that for one minute. Take Pape Avenue, for instance—it is a little different now, but I recollect when we were forced to put a mile and a quarter of water main to supply a man or two and houses at the very end of that street, and the cost of pumping

water to keep the force up there to be fit for fire protection was a daily expense to the city water department by those vacant lands being there. Then of course it cost as much to send a policeman past the vacant lot and look after the lots that were built upon, and the fire brigade has to chase past the mile or so of vacant lots to reach the house that is in flames; and all this additional expense is caused solely by the vacant lots, so that vacant lots should not be exempt on the plea that they are non-producing in revenue, because they are held for anticipated revenue. In my estimation the vacant lands that are enabled to be held out of use should not be exempt.

Mr. Justice MacMahon: They are not exempt.

Mr. Wellings: I am speaking of the two acre clause. Even vacant lots are exempt in the City of Toronto, if they are not assessed for the water mains in front of them; the whole cost of laying the mains was taken out of the consumers of water—it has been changed a little now. Perhaps the cost of laying the plant in the first place would not be so.

Mr. Fleming: I think it was all charged to the general revenue of the city before.

Mr. Wellings: But the laying of the mains?

Mr. Fleming: About half the cost is charged to the water takers and the other half is charged to the general rates.

Mr. Wellings: Yes, that is it. So that in that case I don't think they should be exempt. There is another reason why I think buildings should be exempt from taxes. It is this: Supposing I have $1000 in the bank; I am drawing interest upon it; I take it from there and put it into a house. I build a house with the $1000. The Assessment Commissioner of course assesses me for the $1000—that is, he should if he obeyed the law correctly—and immediately he does that I am assessed for $1000 at 15 mills on the dollar, say $15. The city there, you see, has taken control of $300 of my building; they collect $15 from it. Now, I have to keep it in repair, I have to pay for the fire protection, etc., they have no expense of that rate, yet practically they own $300 of my building. Now I think that is unjust. I do not see why the city should lay claim to a portion of my building, for that is practically what they do when they take the percentage; $15 on $1000 equivalent to five per cent. on $300, and I think that buildings under those circumstances should be exempt from taxation.

Mr. James Hunter: I think I should ask the privilege of correcting some mistakes that the gentleman has made. While there is some truth in what he has stated, I think he is out in many things. According to his idea, for one thing, he would tax vacant lands for fire protection and exempt houses. That is a peculiar stand to take in regard to taxing houses that are causing the cost of scavanger work and fire protection, police protection and drainage and all this sort of thing. He thinks they should be exempted whereas vacant land ought to pay taxes. Now, that is a curious stand to take, to my mind. As regards the question of taxation, 26 mills on the dollar don't begin to cover it in many cases; where large buildings and local improvements are, it might, but in other cases it don't, and in corner lots or vacant land in many instances it is over thirty-five mills. I have paid it myself and I know there are anomalies in those cases, and you are not warranted in taking what may be presented from one side. And you will find if you tax a vacant lot, with local improvements, roadway and sidewalks, etc., you will find 35 cents a foot won't cover; but the taxes that are incurred by house property, I do not see any good reason why they should not bear the cost incurred. Vacant lots are bearing it without any gain or any immediate advantage to it, and I think our friend has not taken that fully into consideration, because it is certainly at variance with my experience altogether.

Mr. Wellings: The gentleman that has spoken is quite correct in what he has said, from the standpoint that he is looking at this question. He assumes of course that land is justly and morally private property; but no individual makes the value of land, it is the community, and the individual makes the value of the house, not the community. So that if we were to be strictly just in the circumstances, what the individual makes the individual should take; what the community makes the community should take; therefore the community should take the full rental value of the land. I am not asking for that; all I wish to do now is to point out that the land value is given by the community, the value of the building by the individual; and if you see it from that standpoint your view would be correct.

Mr. HUNTER: If we were living in a commune I could so understand it, but we are not.

Mr. WELLINGS: I am not responsible for the moral ideas of the people.

Mr. BRYAN: There is one point that has not been mentioned this morning which I think perhaps you might like to learn. It is that there is one church in this city that deems it just that it should pay taxes on its property, and every year for the last five or ten years it has remitted to the City Treasurer the sum of taxes which should be imposed upon its buildings and land, and each year they also protest against the general exemption which applies to church property.

The CHAIRMAN: What inference do you draw from that?

Mr. BRYAN: I leave that to yourself to draw.

The CHAIRMAN: What does it prove?

Mr. BRYAN: That there is one church body that feels that morally they are responsible to the community for the taxes that they pay—that they are bound to pay.

Mr. MACPHERSON: I may say in confirmation of that that we have a clergyman in Hamilton who insists upon paying his taxes.

The CHAIRMAN: His own taxes?

Mr. MACPHERSON: His own taxes.

The CHAIRMAN: Holding the views you do you would do the same?

Mr. BRYAN: Yes, sir.

The CHAIRMAN: That is all there is in it.

Mr. FLEMING: Does not every clergyman pay taxes?

Mr. MACPHERSON: No, they have certain exemptions.

Mr. FLEMING: I don't know where they are, except from $700, the same as any person.

Mr. S. G. WOOD: In regard to the taxation of land surrounding churches, it occurs to me to suggest what probably has occurred to the members of the commission, that in many instances the land surrounding churches and vacant land to a certain extent is a boon to the citizens generally. They create breathing places and give lungs to a city, which are a very important part of the area which appertains to a city in regard to the health and enjoyment of the inhabitants. For example take the ground surrounding some of our principal church buildings in Toronto—St. Michael's Cathedral, The Metropolitan Church, St. James' Cathedral—these are all, I take it, boons to the city, and were presents made, to a certain extent, by the congregations of these churches to the citizens of Toronto, and I venture to say that the open space decorated with herbage and flowers and shrubs surrounding the churches I have mentioned are a delight and a boon to every citizen of Toronto who has the opportunity or the necessity of passing by those grounds. They are actual gifts so to speak, by those churches to the city, and moreover they take the place of land which would properly be provided by the city itself to the citizens in the shape of public squares and breathing spots. I understand that if those lands were taxed in proportion to their value the congregations of those churches actually could not hold them, they would have to be sold for building lots and for other purposes, and I venture to say that no citizen of Toronto would wish to see the ground surrounding the churches named blocked up with private buildings or stores and places of business. It would be a serious loss and detriment to every man, woman and child who lives in that neighborhood. It appears to me it would be a decidedly retrograde movement in grounds of that kind—I speak of Toronto especially, because I am more acquainted with the position of Toronto than elsewhere, but no doubt the same condition of things exists in every city and town in the province—and in taking that into consideration it might very well weigh in considering the propriety of leaving the exemptions in the position in which they stand at the present time.

Mr. LYNCH-STAUNTON: I would like to say a word upon this, not representing anybody except myself.

The CHAIRMAN: That is a good deal.

Mr. LYNCH-STAUNTON: I think it the height of absurdity to tax church property. If we work out theories in every walk of like we find they are not applicable. You can work out on theory a perfectly Utopian state of existence, but you find in practice theories work injustice as often as they work justice As to a church, I know we have a church in Hamilton to which I belong, and I know from personal examination that the property round that church is assessed higher than it would be if that open church square

were not there; and I say that the existence of that open square has given an additional value to that property which is surrounding it, which it would not have if the square were not there. Its saleable value is more than it was before. This church is in a residential quarter of the city, and there is no reason on earth why a property in a block round a church should be of more value than property a block away from the church, except the fact that the residents there have the beautiful square and a fine open breathing space in front of them. Can any person in the world say that the fact of the existence of this park here has not increased the value of those residences which are alongside? Then it is a question of robbing Peter to pay Paul to assess church property. The great mass of the citizens belong to one church or another, and those who do not should belong. (Laughter). Now, if they do not belong, there are very few people in this community or in any community who do not contribute towards the erection and support and maintenance of churches. So that we take out of one hand and just put it into another. The church in Hamilton I speak of, St. Patrick's Church, is a very beautiful gothic structure, one of the most attractive buildings in the city. Now, the congregation that support that church is not a rich congregation by any means, but they have managed in twenty years to build and pay for that church, and it is an ornament to the city. It is as much an education to the city as any fine art gallery, in its way, that can be; and to tax churches would discourage the erection of churches of that kind; and would render them impossible to be erected by the ordinary congregation in ordinary towns and cities. We have not, in this country, people of large wealth that will build churches as they do in the old land, and for the erection of those buildings—and I am speaking only from the secular point of view now—which are an ornament to the cities and give workmen and architects employment and teach them their art, we are dependent upon poor people, and it would be absurd to go and tax them out of existence and tax them so that they could not build. It is of no use. You might as well take the taxes of the city of Toronto and Hamilton as you do now. It is just simply changing the name by taking them out of the church, because the taxation goes back to the people immediately afterwards. It simply means that the clergy or the managers of the church have the trouble of collecting so much more from congregations which are not any too anxious to give them up their money at all events. Now, besides improving the values, and coming out of the general people in some way, it is right to encourage religion. A man may not believe in the hereafter at all, but then he cannot deny that religion is a good policeman; so that even to those who are not church-goers, even to those who have no belief in religion, it is a good thing, they receive the benefit from it from the fact that religion exists in this country. I think a man should go to church, but I am not going to put him there with a pair of pincers, or fire at the stake, or a thumbscrew; but what I say is, that a man who does not believe in religion gets a lot of benefit from it as a police protection. It keeps people in order, it teaches them morality, and makes them good citizens, and it is a school where it trains them. Any man that is well versed in religion is a well educated man from a secular point of view as well as from a religious point of view, and you might as well tax a school as tax a church.

Mr. MacPherson: You say that property in the neighbourhood of that particular church is taxed higher than a little bit off from that because of the open space. Now, supposing the open space of the church were taxed, would not that yield more for the municipality?

Mr. Lynch-Staunton: It might yield to the city two or three hundred dollars, which, if divided over, might be a hundredth part of a mill to each foot of land opposite; it would not make five cents difference a year to the taxpayers around that church.

Mr. MacPherson: Supposing some people came to our city preaching Buddhism, what would you do?

Mr. Lynch-Staunton: I say it would make no difference, the fact that he was exempt, because it would come out of the people anyway again. It is simply another way of putting it; they are paying it through the church instead of to the assessor. I don't believe in saying simply Christian church, I believe all people.

Mr. MacPherson: Buddhists?

Mr. Lynch-Staunton: Yes, I would exempt them all; if they are people in this community who are with us they have a right to be exempt just as a Jew or a Christian has.

Mr. MacPherson : Or a pagan.

Mr. Lynch-Staunton : You are not talking about religion, you are talking about secular matters then ; paganism is not religion.

Mr. MacPherson : The difficulty I find is this, that if I happen for instance to be a Presbyterian I would be very glad to see the Presbyterians exempt from taxation, but you belong to another religious body, I don't know what it is, but I understand it is a religious body, and you are anxious for exemption in that. Now what we want to get at is the most equitable way of raising taxation, and my opinion is that the most equitable way is to make no exemptions at all of religious bodies. If I am disposed to subscribe money to a Presbyterian church or a Methodist church or to any other church, and the non-exemption makes it necessary for me to subscribe a little more, I feel that I am a very poor religious man if I am not prepared to pay my additional share of the tax.

Mr. Lynch Staunton : But some people are not.

Mr. MacPherson : It says very little for a religious person.

Mr. Justice MacMahon : I suppose it is in order to get at those who won't subscribe to the church. They send their children there.

Mr. Lynch-Staunton : That is the way it works.

Mr. MacPherson : But they must have the feeling that they get no credit for that in heaven ?

Mr. Lynch Staunton : Why on principle should a man be taxed that has no children going to school ? The theories all go to smash when it comes to practical application of them. He is taxed for the same reason, because it is a public good.

Mr. Justice MacMahon : It is for the national benefit that every man should be educated.

Mr. Lynch-Staunton : The same rule applies to the church.

Mr. Wellings : The increase of population certainly increases land value, and the man who has a large family is doing more for the increase of land value than the man who has not.

Mr. Fleming : Should not the man with a large family then pay less taxes ?

Mr. Wellings : Hear, hear.

Mr. Hutton : I take a somewhat different stand, I think, with regard to the taxing of church properties to that of any gentleman who has spoken here to-day. They have principally confined their views and their arguments to the taxation of land only. You might at once infer from the few remarks I have made on former occasions that I go further than that. I say tax it all at its value. The statement made by Mr. Lynch-Staunton in regard to the particular church property that he refers to in Hamilton is not quite within the facts. He said that the land immediately around this block—and by the way, they have a whole block, they pay taxes on half of it because half of it was held by the judge to be not in use with the church—the land opposite that is taxed $5 per foot less than the land in the next block which has no breathing space in front of it. Now I say that is the fact.

Mr. Lynch-Staunton : I say it is not a fact, because I examined it.

Mr. Hutton : Mr. Lynch-Staunton is as much at variance with the fact in that as he is in the matter he wrote to the paper about this morning. The exemptions in Hamilton on buildings amount to $150,000, and on land $790,000. If this was taxed you could quite readily see that it would bring under the tax laws something that is not now that would go materially to reducing the rate, because you must remember that not to tax is to tax ; what we do not raise in that way we have to raise some other way and make everybody contribute whether they will or not through the general taxes. Mr. MacPherson instances the fact that he belongs to one denomination and Mr. Lynch-Staunton to another. Well, I belong to a denomination, although not representing officially, but just speaking as an humble member, that believes in the taxation of all church property, and one of which in Toronto regularly sends their cheque for taxes every year—I refer to the Baptists. The entire separation of church and state is one of their principles, and this is one of the things they think would be beneficial, that they would not be under any obligation to the state whatever if they paid the taxes.

The Chairman : That is the principle on which they pay their taxes ?

Mr. Hutton : That is the principle on which they pay their taxes.

The Chairman : They would not take a free grant from the Crown for a church site

Mr. HUTTON: Well, I don't know as to whether they would or not, but if they did—

The CHAIRMAN: They couldn't, on the principle you have laid down.

Mr. HUTTON: I do not know that they ever have done so. They have taken grants from individuals, but I do not know that they ever took a free grant from the Crown.

Mr. WILKIE: That is only local option.

Mr HUTTON: That is only local option. In looking over the matter in the library this morning I found that most of the states of the Union have practically the same law as we have in reference to the exemption of churches. So they have in England, as judged from the report of the Tax Exemptions Commission that was printed in 1878. With the exception of California, which taxes everything, and even went so far as to attempt to levy taxes on the federal property—which of course was held to be not good—the same as your honour pointed out this morning, that in Ontario we would have no power to levy taxes on Dominion lands, whatever they may do of their own volition in the payment of taxes as they have done in England Therefore I think that all church property should be assessed and taxed, and will advocate that. If it was found that it was impossible or impracticable and that public opinion would not bear us out in that—for after all that is what we have largely to look to, although some gentlemen before the Commission think not—I see that Mr. McKelcan and some others who spoke to that effect—I can see no reason why land should be withdrawn from taxes. If I own a piece of land to-day it pays taxes; if I sell it to a church to-morrow it still pays taxes; but when they build on it it does not pay taxes, although it is still liable for the local rate, which of course is another species of taxation. We are just starting the local improvement system in Hamilton, and from that cause three or four churches are now contributing some towards the taxation, I think possibly only four, while the others are not paying a copper as yet; but as the local improvement system grows and the roads and sidewalks and sewers, etc., are built in front of their properties, they will in a greater degree pay more taxes than they are at present. And after all, the bringing in of the local improvement system—I know it is the case in Hamilton—is only a means of keeping down the general tax rate; so I fail to see the difference why if they are liable for local improvement they should not be liable for general rates. In regard to the further section of the Act which exempts universities and church grounds, etc, I am not an advocate of the taxation of the great universities and colleges which are kept up by the state, but I am rather in favour of the law as they have it in Massachusetts.

The CHAIRMAN: The University of Toronto is the only state institution. The others are not.

Mr. HUTTON: They are not, but they are not operated for profit. The law in Massachusetts exempts all educational institutions except where they distribute any profit they may have to shareholders in those institutions. This view does not effect Hamilton because at present we have not in Hamilton any institutions of that kind, but I understand in Toronto and other places where they have corporations of this kind, which I think are not educational institutions as meant by the Act, but Church institutions formed by a number of gentlemen for the purpose of making a few dollars, I do not think that they should go free. Anything of that kind which is operated for a profit I think should pay their taxes Of course on the broad grounds of education it might be objected to, but I think the state and the great institutions of learning are quite able and capable of providing all the tuition that is necessary to put any of our boys and girls in a position for life, and I do not think it is necessary that gentlemen should get together and run educational institutions for profit.

Mr. MACPHERSON: There is no objection to that as long as they pay taxes.

Mr. HUTTON: No, certainly not. I say that because they do that there is no reason why they should escape. In Hamilton a gentleman was assessed for personal property and income on a school, and he said, "Well, now, I can easily escape this by getting two or three gentlemen and forming myself into an incorporated company, and I think I will." He has not done so yet, and he is probably considering the matter. At present it does not affect Hamilton, although we do not know what it may do, but on those broad general lines I think any of these educational institutions that are run and divide profits among their shareholders should pay taxes. My experience in regard to the ground surrounding churches and institutions of that kind operating as to the increase of value is not altogether what Mr. Lynch-Staunton points out. We have had on several occasions

gentlemen before the Court of Revision who have run down their property on account of it being round institutions that have much vacant space that way. They have argued it from several grounds, and I rather fancy that the placing of churches, such as Knox church happens to be now, and one or two churches I could instance in Hamilton, in a position that when the city grows it rather stops business, it rather keeps down the price of land than otherwise. In Hamilton we have, south of James street, two churches and the Y.M C A. which effectually block the growth of the business centre towards the railway station, and thus keeps down the price of land. That has been very clearly instanced, in fact Mr Lynch-Staunton appeared as counsel in one of these cases, and it was pointed out that the holding by churches of land that way—not the holding of the land, but the very fact of them being there when towns were inclined to grow—kept down the price of land.

The CHAIRMAN: You think that the money value of the town or of the city would be less by reason of those institutions, take it as a whole?

Mr. HUTTON: I think yes, take it as you say, the money value in dollars and cents.

The CHAIRMAN: Of the whole city?

Mr HUTTON: Would be less?

The CHAIRMAN: The city would be better for the absence of those institutions?

Mr. HUTTON: No, I did not say that.

The CHAIRMAN: Isn't that the same thing?

Mr. HUTTON: No, I don't think money is everything.

The CHAIRMAN: You mean in certain localities.

Mr. HUTTON: Yes.

The CHAIRMAN: You say it has checked the growth of value at that particular point?

Mr. HUTTON: That particular point is checked.

The CHAIRMAN: But the same increase in value would occur in some other direction, would it not?

Mr. HUTTON: Well, I am not so sure of that.

The CHAIRMAN: Every building or institution which is in itself a value to the city is surely an advantage to it in a pecuniary point of view—adds to the actual value of land in that particular city?

Mr. JUSTICE MACMAHON: I hardly think that that is the case. Take a case where a railway station is situated, it drives away business from that locality.

The CHAIRMAN: From that spot, but surely it brings business to the city?

Mr. LYNCH STAUNTON: It is a growing business in Toronto.

Mr. JUSTICE MACMAHON: I understand Mr. Hutton's remarks are addressed to the fact that in the vicinity of where churches are the value of the land as residential property or otherwise is not enhanced; he lays down that single proposition.

Mr. HUTTON: Yes.

Mr. MACPHERSON: More particularly in business centres.

Mr. JUSTICE MACMAHON: Although that would not apply to very large cities like New York or Chicago.

Mr. MACPHERSON: No; but in Toronto and Hamilton we realize that putting public buildings of that nature in the centre of the city is a disadvantage.

The CHAIRMAN: But if an institution of that kind is a good thing in itself for the city to have, is not the city advantaged by it in a money point of view, in money and land, when it is divided over the whole?

Mr. MACPHERSON: Oh, certainly, but there might be an advantage if that were further from the city limits.

Mr. JUSTICE MACMAHON: That is, the nearer the church the further from grace.

The CHAIRMAN: There is no scarcity of land in Hamilton, is there?

Mr. HUTTON: No, sir; we can enlarge the boundaries, and along the present boundaries there are a couple of thousand acres of land that are not built on yet. We cannot go south and north very much; we can go east and west.

The CHAIRMAN: I would like to know how you distinguish between educational institutions and churches. You say that educational institutions ought not to be taxed except where they are run for profit. Churches are not operated for profit.

Mr. HUTTON: No.

The CHAIRMAN: Then why should there be any distinction between churches and educational institutions? You would tax one but not the other. Is a church not an educational institution in your view?

Mr. HUTTON: In certain lines, yes. But we all have to have an education in order to do business. We do not have to have religion to do business.

The CHAIRMAN: We would be better for it.

Mr. HUTTON: Quite true, we would be better for it.

The CHAIRMAN: And that is all you can say of education?

Mr. HUTTON: I don't know. The State has made it compulsory. They have not made religion compulsory.

The CHAIRMAN: But the State considers religion a good thing.

Mr. HUTTON: Certainly, or they would not have exempted churches, I suppose.

Mr. JUSTICE MACMAHON: It is said that the great educator is books, as expounded in the churches.

Mr. HUTTON: I would go this far, although perhaps it would not receive much approval; I would tax all educational institutions except what are State owned.

The CHAIRMAN: A man builds a building for an art gallery, open to the public, or a great library for the benefit of the public; you would tax that, too?

Mr. HUTTON: I don't know that I would if it was free; it would practically be State.

The CHAIRMAN: No, it is private property.

Mr. HUTTON: I would not of course exempt the land, because the land would be still in the same position, and the rates and all that would have to be taken up. I do not believe in withdrawing any of it from taxation. Were we to exempt only the buildings we would not be taking anything from the taxable value, because that would be put on afterwards.

The CHAIRMAN: If when a private person announced his purpose of erecting a large building for a public library or for an art gallery the municipality made him a grant to assist him in doing it, it would be a good thing, would it not?

Mr. HUTTON: It would be a good thing, yes.

The CHAIRMAN: If they exempt him from taxation wouldn't that be a good thing too?

Mr. HUTTON: I think not.

Mr. JUSTICE MACMAHON: When Mr. Carnegie made the grant of a large sum to Edinburgh they immediately exempted it from taxation.

Mr. HUTTON: You might still go further. The Massey Hall here thought they were going to get free of taxation because they were going to do an educational work.

Mr. JUSTICE MACMAHON: Partly, and partly for profit.

Mr. HUTTON: They claim there is no profit in it, although you have to pay to get into it.

Mr FULLERTON: Massey Hall came before the Court on that ground, and we held it was within the Statute; it was not entitled to exemption.

Adjourned at 1 p. m, to 1.30.

On resuming.

The CHAIRMAN: Does anyone else desire to be heard on these two exemptions, namely, religious institutions and educational institutions? Were you proposing to address us upon those, Mr. Fullerton?

Mr. FULLERTON: Yes, Mr. Chairman. There are some figures that I will ask to be put in later. I want first to direct your attention to the first subsection of sec. 7 of the Act, and there are some other sections that I want to deal with that are perhaps outside of the range of the general discussion this morning, but which I propose generally dealing with while I am on my feet. I want to point out the way that this first sub-section is worked, I think, unequally and unfairly in certain cases different from others. Whether Crown property should pay or should not pay, I think there is some property that should pay. Take for instance the land directly vested in the Crown, Upper Canada College. It has ceased to be used for the purpose for which it was created. Take the old Parliament Buildings; they have also ceased to be used for the purpose for which they were built; they are now

held by the Government, I am informed, for sale, and are being offered for sale, and are therefore in competition with other land for the same purpose for which all other lands are in the market; and in cases of that kind whatever conclusion you should come to in regard to Crown property generally, I very strongly submit that that should be liable for taxation, for all taxation, and in any event that that should be particularly liable for local improvements and schools.

Mr. JUSTICE MACMAHON: If they are tenanted the tenants are liable.

Mr. FULLERTON: They are probably not tenanted. Let us assume they are tenanted, they are simply held; if they are tenanted the tenants are liable, but that is only a delusion and a snare, as I shall point out in a moment, because tenants are generally in the position merely of caretakers, and the assessment against them becomes of no importance, because the income does not pay, and it is no lien on the land. That has worked in one instance in a very peculiar way. The lands of the University are vested in the Crown as a trustee, and by two decisions, and which incidentally affect the question of taxation suggested by the President of the Board—Regina vs. County of Wellington, 17 Appeal Reports, 421, and Quirt vs. The Queen, in 19 Supreme Court Reports, 510—it has been held that land vested in the Crown, although the Crown is not the beneficiary but only acting as trustee, is equally free from taxation with land that the Crown owns in an official character. The result then comes in this way: The University loans money; by the way, I want to call your attention to two other sections that bear on the point, that is Section 23 of the Act and Sections 188 and 189 of the Act. The result then is, so far as the University is concerned, that they act as a loaning company. They loan their money in Toronto and elsewhere, they take mortgages. If the mortgage is not paid they foreclose; whatever taxes are behind they say "This cannot be a lien on this land because this is now foreclosed and vested in the Crown, you cannot recover your back taxes; we hold this land." They hold it, they sell it or dispose of it at a later period. Whatever length of time they hold it for it is free from taxation and the back taxes are cut out in that way. In three cases at least this has worked out.

The CHAIRMAN: The back taxes are a lien against the land, are they not?

Mr. FULLERTON: No, not as against the Crown.

The CHAIRMAN: I mean as against the private owner?

Mr. FULLERTON: They are not collectable against the private owner because of foreclosure.

The CHAIRMAN: They must make the city a party in foreclosing and give the city a possibility of redeeming.

Mr. FULLERTON: That might be, but would that help us any? The liens are not on the interest of the Crown.

The CHAIRMAN: They are just like any other encumbrance.

Mr. FULLERTON: No, my Lord, I believe not. (Reads section 189.) So that apparently we cannot affect their mortgage, and their mortgage cuts out our title for taxes and leaves us unpaid. I submit that that is an anomaly, possibly not expected by those who passed the Act. At any rate, it has grown up and it should be corrected. Now, that is specially in addition to what I pointed out with such places as Upper Canada College, the Parliament Buildings and other unoccupied lands that are not held for any Governmental purpose.

The CHAIRMAN: If a man were to buy a piece of land on which there were arrears of taxes, would that cut the taxes out?

Mr. FULLERTON: Well, I submit it would.

The CHAIRMAN: I think not. It would require something very express in the Statute to have that effect. Why should it cut out taxes and not any other kind of lien?

Mr. FULLERTON: But the case that I am putting is hardly that. The case that I am putting is the Crown taking a mortgage and the taxes accruing after the mortgage has been put there, and during the continuance of the mortgage, while the Crown has an interest there, and I think that distinguishes it and makes it so that, as far as the mortgage is concerned and foreclosure under it, subsequent taxes are cut out. Probably as to previous taxes what your Lordship suggests would be right. What I have said covers sub section 2. I desire to say just a word on sub-section 3. Some question has arisen about burying-grounds, and while it would at once suggest itself to one's mind, as

pointed out by one of the members of the Commission, that you could scarcely sell a burying-ground under the powers of sale, that is only one of the three methods that ought to exist for collecting taxes; and as pointed out by Mr. Justice Rose in Consumers' Gas Company vs. Toronto, and by Mr. Justice Street in another case, because one method fails that is no reason the taxation should not apply and the parties should not be taxed. Now burying grounds, in the city of Toronto at any rate, I am informed—for I have not particularly investigated their charters—are formed for the purpose of speculation, or perhaps I should say for purchase and sale—that need not be speculation, and the owners of those grounds for profit sell their lots

The CHAIRMAN: Are there any such in the neighbourhood of Toronto?

Mr. FULLERTON: I think so; I think they are all that.

Mr. JUSTICE MACMAHON: St. James' is in connection with the church?

Mr. FULLERTON: It is so

The CHAIRMAN: I had a very different impression.

Mr. FULLERTON: Perhaps the parties who own the ground itself own it on behalf of the church, but it is sold, so far as the purchaser is concerned, for the parties dealing with him; he buys his land and they take his money, and they hold it for the purpose of making money out of it, perhaps in connection with the church. I would not say whether Mount Pleasant is in the same position. I know of another case, and I am not prepared to say what is the constitution of the Company, but the land was bought for speculation and it failed to sell for speculation, and it was subsequently turned into a company for a burying-ground, and so turned over in that way. Then these grounds do this, and this will apply to several things that came up this morning. It was remarked by a member of the Board that although ground was occupied by churches, the same number of people are still in the city that would be there. They find a location elsewhere. The result is to increase the size of the limits without increasing the population, but that result requires more roads, more asphalt, more police protection, more expense, if the spaces round the church, round the burying ground, round the school, could be occupied for other purposes. Then the roads that surround that are an additional expense. I think the point is well taken that the population may be just as large though the church is there, possibly larger than it would be if the church was not there. In relation to a burying-ground, which occupies part of the city, the population would be just as large I mean the living population, not the dead—but that space occupies a a place that has to be supplied with roads, with police protection, with sewers, and if that was not there the population would be more concentrated.

The CHAIRMAN: It is chargeable now with sidewalks and pavements.

Mr. FULLERTON: The church is, but the burying ground is not, and that is what I am directing your attention to in sub-section 3, and I submit that this section leaves the matter in an anomalous position and that should be rectified.

Mr. WILKIE: That no doubt was for the very purpose of preventing the seizure and sale for non-payment of taxes.

Mr. FULLERTON: Possibly that may be so, that may be one of the grounds upon which it can be urged that it should not be so, that the graveyard should not be invaded for any reason. Of course there are lots of vacant lands that are probably not used in most of our burying grounds; but in most cases even if the tax were imposed and power given under old Section 131, (142 or 143 now), to collect the taxes by a suit, by an action, that that could all be recovered, and distress should not be allowed against the property on the lands or on the sale of the lands, and no doubt it would meet all purposes. Of course a personality tax has to be recovered by distress or suit unless the person who owns land may be made liable, but they are not a lien on the land.

Mr. JUSTICE MACMAHON: How would you collect, then?

Mr. FULLERTON: It is altogether likely that the Company if good could be sued for it if they would not pay up; if they would not pay it without suit it could be recovered or distress made to recover it.

The CHAIRMAN: Can you disregard public opinion on the question of taxing cemeteries?

Mr. FULLERTON: Not if public opinion would be strong against it.

The CHAIRMAN: What do you think of public opinion?

Mr. FULLERTON: As to taxing roads and improvements alongside of them, that is all I am arguing in regard to that, that they should be taxed for the local improvements.

Mr. JUSTICE MACMAHON: That they should come under the Local Improvement clauses?

Mr. FULLERTON: Yes.

Mr. JUSTICE MACMAHON: The same as the churches?

Mr. FULLERTON: The same as the churches. If for instance the burying ground was alongside of the church and used as part of the church properties, the language is broad enough; if not the language is not broad enough, and I do not think the local opinion, if submitted without question or grumble, as far as that is concerned, would be more than what is fair and reasonable. A great deal more comes in as regards public opinion when we go to deal with the church itself. Then I say on Sections 1, 2 and 4 they should be in the same position as to local improvements. I have pointed out two particular cases which I think should be changed, and I think all should cover local improvements. Then again as to school property, clause 4, this is the amendment to clause 4, "The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of either university, college, high school or other incorporated seminary of learning, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used by such institution or unoccupied, but not if otherwise occupied." Now what I want to point out is that whether owned by a school or not, the moment it would have ceased to be a school—as in the case of Upper Canada College—of course there is a different reason there, and that is Government land—it should immediately become liable for taxation. If there are reasons for exempting schools and colleges, and many have been urged, the moment it ceases to be so used I think it should be liable for taxation.

Mr. JUSTICE MCMAHON: Isn't it if once taxed?

Mr. FULLERTON: The words are "if unoccupied," which would seem to leave it as if it was a school property still. I mean if the property has ceased to be used as a school and they simply hold it, I think it is not taxed. The two assessors tell me that that is correct.

Mr. JUSTICE MACMAHON: It has been held that where a corporation exempts a manufacturing company from taxation say for 25 years in consideration of its putting up buildings and all that sort of thing and carrying on a certain business, as soon as the business ceases, or where the buildings burn down, and in consequence the company ceases to do business, the taxation is resumed again.

Mr. FULLERTON: Wouldn't that be so for this reason——

Mr. FORMAN: There is no exemption in the rates for educational purposes. The exemption is only good when a manufacturer has shown that he has complied with the specifications. The assessor assesses the property as if it were not exempt.

Mr. FULLERTON: And in the case you have put it would be a matter of contract, and the contract not being carried out by one side, the consideration fails; but here is a specific provision the school property shall be exempted if unoccupied, and I think it goes far enough, and I think it has been so held by our County Judge at any rate, to cover lands belonging to the school that are not occupied for school purposes, that are just standing unoccupied, and that he would otherwise hold were not being used for the purposes of a school. There is perhaps a little matter in sub-section 7 that I would like to call your attention to. Under that, for instance, a county holding land in a city, take the Registry Office in Newmarket which they occupy for the purposes of the county and the county own them. They ought at least to be liable for local improvements. The case which occurs here is not of much moment, the case of the old Court House and the City of Toronto, under which by agreement, validated by legislation—the validation in this instance being unwilling—does pay the local improvements but would not pay any other ordinary taxes. Where it has ceased to be used for any purpose of that kind perhaps it ought to be free of all taxation, but where it is held in a city by another municipality it ought to pay the local improvements. Then I would next mention Sub section 9, the Provincial Penitentiary, the Central Prison, the Mercer Reformatory and the lands attached thereto; as in other cases they take up space, they require roads and sewerage and other local improvements at least. For matters of that kind at least I point out they should be taxed. Sub-section 11 deals with public libraries, mechanics' institutes and other public, literary or scientific institutions. I think the reading of that should be "every public institution,

literary or scientific," because otherwise it leaves the question whether it means a public institution without defining it. I submit also that the words "unless the Council consents to such amendment," in the latter end, should apply to the whole section; it now apparently applies only to the last half. They should be liable for local improvements and other things of that kind unless with the consent of the Council.

The CHAIRMAN: Your point is that the words "Where the Council," etc., should apply to the whole section?

Mr. FULLERTON: Should apply to the whole section, which it does not appear to under the present reading. Now, under sub-section 10 I want to point out a case that has occurred in the City of Toronto. I think the amount of land exempted in these institutions should be limited. We have one case in the City of Toronto where a benevolent person in dying gave to one of those institutions a farm consisting of about twenty acres, which is used for raising potatoes, vegetables, practically for farm purposes. It is now near the institution to which it was left; it is probably a mile and a half away, and is only used incidentally in connection with it, but it belongs to it under the words of the Act. The words "belonging to" have been taken by our judge to mean ownership, and that has been held to be free from taxation. I submit these all should pay, as the others should pay, local improvements, and that if they are allowed to own some land in addition, some reasonable limitation should be put on the amount they are to own in that particular. Perhaps it is not cognate to the discussion, but you will allow me to point out that sub-section 17 of this applies to merchants, and if you should make any change with regard to merchants' taxation it will require to be changed. If you should make the change as was suggested by Mr. Paul Campbell and Mr. Hugh Blain in regard to merchants, their income should be taxed. Now there is exemption of the income of a merchant derived from his business. Then the next that I would call your attention to is not sub-section 29, but section 29 of the Act, and I would suggest that as this section 29 deals with the taxation of vacant lands, that this clause might be very well changed so as to have the concluding portion of it the same words that occur at the conclusion of section 30, "unless by by-law the Council requires the same to be assessed like other ground." You will observe that section 29 exempts; section 30 exempts unless the Council by by-law sees fit to remove the exemption; and probably the whole question of vacant ground could all be dealt with in that way. The other section I desire to refer to is 39, sub-section 2, the taxation of certain incorporated companies; that has been discussed, and I handed in this morning the proposed amendment about which Mr. Wilkie spoke to me. Now just a word or two with regard to church exemptions and school exemptions. One approaches a question of this kind with much hesitation, because the church exempt from taxation has so much grown up with us and become a part of us that it seems like irreverence to discuss it in the same manner in which we would other things; but it does seem to me that we ought to be logical, and the same reason for churches being exempt would apply to Masonic halls, Oddfellows halls, Orange halls, other party halls of a similar or dissimilar kind so long as they are party halls, and any other institution.

Mr. WILKIE: Conservative halls?

Mr. FULLERTON: Yes, Conservative halls, Reform halls; it would apply to the Albany Club, for instance, not held for profit, to the National Club and other clubs of that kind. I am speaking now of the fact, do not misunderstand me, that they have acquired property which does not bring them any profit, which was suggested yesterday as a reason for not taxing them. It may be that so far as usefulness is concerned, so far as public education is concerned, so far as benefit—

Mr. JUSTICE MACMAHON: I suppose the reason why churches were exempt was that they were considered the House of God; that in those churches what was considered the highest teaching was taught; that is one of the reasons.

Mr. FULLERTON: That of course comes under an entirely different heading, as to the quality or character of the teaching. I do not want any words of mine to belittle that in any way whatever. The reason I speak upon the question—otherwise personally I would be disposed to be silent upon it—is that it was submitted to the people of Toronto and the vote was carried against exemption by a very large majority some years ago. On two or three occasions since that time the Council have instructed the solicitors to ask for legislation, and the year before last we did ask for legislation. My friend Father

Teefy, along with a very large number of other gentlemen of cloth, were there representing all the denominations, and I have always felt that if I did no other good on that occasion I had the satisfaction of bringing the lion and the lamb together for the purpose of defending themselves.

Mr. JUSTICE MACMAHON: Which was one and which was the other?

Mr. WILKIE: Which was inside?

Mr. MCPHERSON: The lamb was inside.

Mr. FULLERTON: I want to say here—and it touches a point raised by the president—if the feeling of the Legislature is to be gauged by the result of the application, our application met with no assent whatever, the vote was wholly against us. I don't know that we got one vote in our favour.

Rev. FATHER TEEFY: I don't think you did.

Mr. WILKIE: You were in favour of exemptions?

Mr. FULLERTON: I was against exemptions; I was advocating the abolition of exemptions. Now logically, if not bringing in any sum, or being held for perhaps a very long time—for a time to which we can fix no limit—is to be the criterion, it struck me with much force when first suggested this morning, we must say it applies with equal force I think to other institutions which may be formed, including clubs and halls, all of a public character or belonging to a sect or to any body which built them merely for the purpose of meeting and not for profit.

The CHAIRMAN: A club would be more like a dwelling house?

Mr. FULLERTON: Not so, I think, for this reason: A man occupies a dwelling house which he owns, but if he did not occupy that he would have to get another somewhere else, and possibly pay rent for it or buy it. If a hall is burned down, if they intend to go on they must have another hall of course, but they are not bound to have a hall, they merely get it for purposes of convenience.

The CHAIRMAN: Clubs are places where a good many people spend a great deal of their time.

Mr. FULLERTON; Quite so.

The CHAIRMAN: Where they dwell for a very long time.

Mr. FULLERTON: And so is a church, where some people do not spend enough and where some spend a great deal.

Mr. MACPHERSON: A great many sleep in church. (Laughter).

Mr. FULLERTON: I have the rolls which I sent for, and the figures stood in favour of abolition of church exemptions, 11939, against abolition, 5402, giving a majority in favour of abolition of 6537. This was in 1898. Of course it would be municipal electors. I don't know that I could follow that much farther with the arguments. The matter is fully before you. Perhaps the only thing else I can do that may be of some importance is to give you the figures showing the amount of exemptions in the city of Toronto.

The CHAIRMAN: Was there a bill introduced?

Mr. FULLERTON: Yes, there was a bill introduced in this way; The city drafted a bill. The discussion was before the municipal committee in the House.

The CHAIRMAN: You got no vote at all there, you said?

Mr. FULLERTON: Oh, it was entirely against us; the preamble of the bill was vetoed.

The CHAIRMAN: So that that expression of public opinion was several millions to nothing?

Mr. FULLERTON: The expression there of course was the House itself; and so far as the vote was concerned, I found myself in this peculiar position—

The CHAIRMAN: They represented the whole Province?

Mr. FULLERTON: I represented the city; the House represented the whole Province and was against us. The debate on the occasion was very unequal, because I was left alone, and as I say, the churches all turned out, all denominations were there, and all in their most eloquent vein, and the case was very unequally presented.

The CHAIRMAN: Where was this church that we have been told about this morning that pays its taxes voluntary?

Mr. FULLERTON: I believe they did not turn out to help me on that occassion. Perhaps they were not invited, but they were not there. They have gone on paying their taxes all the same, though, and I say with great credit to them. Now one other point that

comes up under that head of the discussion. I refer now to the schools, Section 4. It has been already intimated to you that one man in Hamilton has suggested that if he was taxed because he ran a school he would become incorporated and then he could not be taxed. Now there are a large number of such institutions in the City of Toronto, and while I do not want to decry the great value of these institutions, I submit that incorporation is utterly wrong as a ground on which they should escape taxation. There is no reason why, we will say, Mr. Jones can start a school and he is taxed, and Mr. Jones says, "I will apply under the Joint Stock Companies Act, or under the Act for Charitable Incorporation or for Easy Incorporation," and why Mr. Jones and his wife and three daughters, making five, should incorporate and then escape taxation. It was suggested at that time by Mr. Houston that the proper ground for escape would be that they came under some inspection, that they came up to some standard. If that were in vogue there might not be so much ground of complaint, but as it is we do say that that is not a proper way to have that Statute left, and that the words there should be changed and something put in place of that provision for escape by incorporation.

The CHAIRMAN: Their proposal is that private teachers should also be exempt.

Mr. FULLERTON: Well that can be carried altogether too far.

The CHAIRMAN: Why?

Mr. FULLERTON: It may be.

The CHAIRMAN: If incorporation is the only objection?

Mr. FULLERTON: I am going to point out another objection. I say that is one objection. If you put it in that way Mr. Jones owns the house, his wife takes in pupils to music, or a child that she teaches. It is a teaching institution, a house where teaching is done, and there would be immediately application for exemption of taxation, and we submit that is not right. It is now carried in the City of Toronto to a very large extent. $789,000 escapes taxation in the City of Toronto under the head of "Incorporated Seminaries of Learning."

Mr. WILKIE: That is not outside of the public school system?

Mr. FULLERTON: Oh yes, entirely outside of the public school system. Of course I would not for a moment say that we would gain anything by taxing for the public schools; they are a necessity, and while it might not be quite logical, and I have not the good fortune to have any children, there is no tax I pay with the same cheerfulness that I pay my public school tax. Now the whole school exemption amounts to $5,677,377—I am speaking now for 1899.

The CHAIRMAN: Then you approve of that principle?

Mr. FULLERTON: I am speaking for myself.

The CHAIRMAN: That men who have no children should pay a school tax as well as those who have?

Mr. FULLERTON: Yes, I am personally quite willing to pay my school tax.

The CHAIRMAN: How do you justify the equality of that?

Mr. FULLERTON: I do not try to justify it. The general benefit of the community of which we are all members.

Mr. JUSTICE MACMAHON: You put it on the broad ground of public policy?

Mr. FULLERTON: Perhaps it may be a little socialism, though I have have no children of my own—I am speaking now generally—I feel that the rest of the children of the community are something that I should take an interest in and see that they are educated and made good citizens for the future.

Mr. WILKIE: Up to what period of education? Would you send them to the university?

Mr. FULLERTON: No, I would stop at a common school education.

The CHAIRMAN: Why?

Mr. FULLERTON: Because I think a common school education is something that every child ought to have.

Mr. WILKIE: What is common, how much is it?

Mr. JUSTICE MACMAHON: The three R's.

Mr. FULLERTON: That we must leave to be determined by the Board of Education, the Council of Education, as to where that shall stop; but what I would say as to that, Mr. Wilkie, is this: a man is going to be a labourer, a mechanic, a farmer, he earns his living by his manual labour; that requires that he should have some education, it does

not require a university education, and so far as education is thought by the authorities to be required for all, that far I think we should join in giving. Where he is intended to go onby his parents or hims lf, or those interested, to where he can earn his living by some profession, some calling which requires a special education, I do not think the rest of us should be called upon to pay for that, because it is not determined in any sense in the Council or by ourselves.

Mr. WILKIE: The trouble is that they all want to be doctors and lawyers.

Mr. FULLERTON: There is too much of it.

Mr. JUSTICE MACMAHON: No, they all want to be bankers.

Mr WILKIE: That is more difficult.

Mr. FULLERTON: Besides the figures I have given you I have made up a statement here of the different classes of exemptions of real estate property in the city of Toronto for the year 1901, showing what they are, and it might contain information that would be useful to you, I will hand this in. (a)

Mr. WILKIE: Can you tell us what this $800,000 of exemptions of seminaries of learning is made up of?

Mr. FULLERTON: A large number of properties, about eighteen in all.

The CHAIRMAN: What are they?

Mr. FULLERTON: The College of Music, Moulton Ladies' College, St. Andrew's College, Ontario Society of Artists, Ontario Veterinary College, Havergal Ladies' College, Toronto Church School, Bishop Strachan School, Conservatory of Music, St. Margaret's College, Loretto Abbey, St. Joseph's Convent, Loretto Academy, Precious Blood Monastery, Loretto Abbey Redemptorists, St. Joseph's College, Ladies of Charity Monastery. Sec. 39 of the Act, subsec. 2, is the one relating to banks, etc. In discussing the assessment of land Mr. MacKelcan addressed himself to the question, and I endorsed what he said in regard to that, and in the draft charge I made and handed in this morning I have drafted a clause for that. I think we fully discussed that at the time, and that is the reason I did not follow it up. My attention has been directed to it again. We think that no good reason has been shown why there should be that special exemption of the personal property of all those several companies, railway and tramroads, harbours and other works, or of any of them, and that that clause should be struck out. In case of banks I think that Mr. MacKelcan's argument was that they should be exempted. Possibly that would be right as to deposits, because they do not own them, but I submit their income should be dealt with the same as the income in any other company or institution and that it should be taxed on that income.

Mr. WILKIE: The income belongs to the shareholders.

Mr. FULLERTON: Probably.

Mr. WILKIE; The shareholders are taxed on income.

Mr. FULLERTON; Probably as stated by Lord Blackburn in the case of Mersey Docks, after the Queen has had her tax it belongs to the shareholders, but until she has had her tax she is first to be satisfied. In the Mersey Docks case certain things were directed to be done, and after these were done the moneys should be distributed to certain persons. Lord Blackburn says, "Certainly it must be distributed, but it must be distributed after the Queen has had her tax."

Mr. JUSTICE MACMAHON; That is a particular tax applying to that special property.

Mr. FULLERTON; No, there was no tax named. The contention of the Mersey Docks as that as the Statute gave a direction as to how their money should be paid and did not mention the tax at all that therefore they were exempt from taxation by a special direction, but the answer was, "That special direction is subject to the law as to taxation."

Mr. HUTTON; Following out what Mr. Fullerton said as to taxing the banks, Mr. Wilkie points out that the shareholders are liable to taxation. They are only so far as the amount that they get. The banks earn very largely every year more than they distribute, and carry it forward to their rest account.

Mr. WILKIE: Sometimes.

Mr HUTTON: Take the statements of last year, it was upwards of half a million in the Ontario banks. Take the Bank of Hamilton, they earned about $180,000; I think

(a) See No. 17 in Appendix A.

they distributed $100,000 and carried $80,000 to the rest. I think, if the shareholders are liable to pay taxes on the amount they get, the banks should be liable to pay taxes on the amount they keep, and, of course, the shareholders are each individually exempt up to $100, which removes a large portion of it. I do not think there should be any distinction between the individual and the capital. If the banks distributed all their net profits to their shareholders it would be all assessable in the hands of the shareholders, but because they keep a certain percentage of it, sometimes it is more, sometimes it is less, that percentage which they keep is not liable to pay taxes.

Mr. WILKIE: You refer to all incorporated companies?

Mr. HUTTON: Yes, not banks alone, all incorporated companies

Mr. WILKIE: All loan companies as well?

Mr. HUTTON: Yes, all loan companies, but, of course, it is more apparent to us in the case of banks because we have the figures. Of course, what Mr. Wilkie points out applies to all companies whose dividends are liable to assessment. The amount of the "rests" of the Ontario banks is now some twelve or thirteen millions. That has been accumulated from year to year, and, of course, out of the profits, and, of course, none of it has as yet paid any taxes, and as I said the amount last year was upwards of half a million, and the banks paid no taxes simply because the bank kept it instead of distributing it, and I suppose the amounts are much greater in reference to the other companies, as Mr. Wilkie points out.

Mr. WILLIAM HOUSTON, M.A.: If it is just as convenient to the Commission and everybody else, I think it is understood that the schools would like to be heard and get away. Mr. Fullerton is the first to raise this question in any shape that threatens the present private schools, and he has not been very severe or very threatening. I might just mention that I was present at that meeting of the Municipal Committee three years ago to which he referred us, and the vote was quite as squelching as he has graphically described it here to-day, and I don't doubt that so far as exemptions of churches is concerned it would be so again. I am not quite so sure about the other, because the two were separated in the vote I think at the time.

Mr. FULLERTON: They came up on different days.

The CHAIRMAN: Were both subjects before the House?

Mr. HOUSTON: The Municipal Committee. Both subjects were before the House at that time

The CHAIRMAN: Do I understand that there was a Bill brought before the House to abolish the exemption not only of church property but on educational property as well?

Mr. HOUSTON: Yes; I think Mr. Fullerton is at fault; I think it was at the same meeting.

The CHAIRMAN: Did the Municipal Committee vote apply to both?

Mr. HOUSTON: Yes, and practically taken altogether, and there was no opposition to either of them.

Mr. FULLERTON: They both came up together and they were both discussed along the same lines.

The CHAIRMAN: With a single vote on both questions?

Mr. FULLERTON: Yes, but largely it was a church discussion and the argument along the line of churches. Now, so far as the schools were concerned, I think entirely different grounds apply and I have endeavoured to point that out.

Mr. HOUSTON: I would not have thought it worth while to appear before you here to-day if I had been sure that other persons better qualified to speak on the general question would be here. But I have been asked for special reasons to appear on behalf of two institutions, two ladies' colleges. One is the Presbyterian Ladies' College and the other is St. Margaret's College. Mr. Dickson would have been glad to be here, but he is not well enough to appear before you to-day, and he asked me to say something on their behalf, and I can do this the more easily because these two institutions are on exactly parallel lines I am not going to say anything at all about the class of institutions represented, I think, by my friend Father Teefy here. He can speak for those that he represents, and I may say that the class of institutions to which these two belong includes colleges outside those represented here to-day, such as Alma of St. Thomas, Whitby College, Coligny College, Ottawa, and the late Brantford Ladies' College, and the late

college at Hamilton, which somebody from Hamilton this morning said had been converted into an hotel.

Mr. HOUSTON: I can speak very definitely as to the character of both of these institutions which I represent. They are both incorporated, and they are seminaries of learning, and whatever doubt there may be as to others, these come correctly under this designation, and whatever applies to any class of institutions, I hold applies to these. Now, I would call your attention to the fact that this question has a history. I remember looking up all the statutory legislation respecting exemptions of such institutions from taxation two years ago, but there was no need, as the argument was so one-sided, to intervene in the matter at all. I have not the memorandum by me, but I can recollect very well the course of the legislation. Prior to 1850 we had no public school system at all of education in Ontario, or Upper Canada. Prior to that time all education was of a voluntary sort. There was no general system of assessment for support of public schools, and our exemption, the one that we enjoy, is a survival from that time. I hold there never was a time when these exemptions were not enjoyed. This is not a new creation, it is not special legislation. There are other exemptions there that have a shorter history, but this is a history that goes back to the time when education was entirely voluntary and a matter of private enterprise, and the Legislature evidently established this exemption for the purpose of encouraging that private enterprise to do the work that was not being done. Now when the public school system was established it was intended to be, as Mr. Fullerton described it, for a common school or ordinary English education, but there is what we call secondary education which in those days was provided for entirely by a few grammar schools well endowed out of the public domain, and those were scattered at points so widely apart that their utility for secular school purposes was very greatly limited. Then we had such institutions as the old Brantford Academy, and the school at Barrie, and various other schools in this Province that were incorporated, for the very purpose for which these schools are still incorporated, giving a secondary education to those persons who could not otherwise get that advantage, and they generally had residential attachments, some for boys and some for girls. Now I merely call your attention to this because I think it is all important that we should recognize that this is a survival. Then the only question is, should we maintain it? Is there any reason now for maintaining such institutions in addition to the public school system, outside of it, but doing the same work? I maintain the same reason still exists. We have all over this Province, including in the Northwest and in other parts of Canada —which I think we can fairly take into view—persons well off who have daughters and sons growing up for whom parents would like to get a good secondary education to prepare for entrance into university or into the professions, and it is impossible for them to get that education at home; they are living remote from centres of education in many cases, and sometimes in places where they have not high schools or collegiate institutes, and they would prefer on the whole that if they send those children from home they should go into residential schools where their discipline would be carefully looked after outside of school hours as well as in, and that is a class of community that really merits our attention in this connection. Then for another reason, there is a class of pupils who go to our high schools and collegiate institutes who seem to be not amenable to ordinary day-school discipline. They waste their time, unfortunately, and the high school masters have no very great personal interest in looking after those pupils, and for that reason, as Mr. Lockhart Gordon explained to the Municipal Committee, they thought it well to establish this Church School without a residence attached to it at all in Toronto here, where the boys, even day school pupils, are looked after more closely by enthusiastic and sympathetic teachers than they can possibly be in large collegiate institutes. From the standpoint of the public it is well to note this, that in Toronto we have three large collegiate institutes, and if they are not full to overflowing they are generally kept fairly full, and if the secondary schools doing secondary work and enjoying exemption were not in existence, not only a fourth but possibly a fifth of those institutions would be a necessity. Mr. Dickson I see is here now. I think I am safe in saying—he can correct me if I am not right—I think St. Margaret's College and the Presbyterian Ladies' College together have somewhere between 100 and 150 resident day pupils in attendance constantly. Well, that shows that these two schools alone educate of Toronto's pupils half as much as say the Parkdale Collegiate Institute.

The CHAIRMAN: You mean by resident, in residence, or resident here in the city of Toronto, Toronto's own pupils, what are called day pupils?

Mr. HOUSTON: Yes, and we maintain it is a fair way to put the case that if we did not do this work the city would have to go to additional expense; and where would be the gain? We are doing it now, and the people send their pupils to our schools and pay large fees, because we must charge large fees as we have great expenses to meet. People who do that pay their public school tax and help to maintain these collegiate institutes and do not grumble, and we say it is a small matter for the city of Toronto to object to this small amount of exemption we do get, which amounts in a large number of cases to a comparatively small sum. Just let me call your attention to another aspect of the matter before I sit down. There is one thing that we always say about the public school systems, that the very fact that they are systems, mixes up a certain amount of evil, uncontrollable and in the last result irremovable evil, with education. It is impossible for us to have a perfect system that is not dead. The more perfect it is the deader it is so to speak. The tendency of system is to divest the teacher, who is part of that system, of all personal interest in the child. The tendency of the voluntary system on the other hand, I can vouch from close personal inspection for many years, is to stimulate sympathetic interest on the part of the management in each individual child; and the parent who prefers his child to go to a private school for the reason that he can get a better attention and better education on the whole than at the public school, has a right to be considered in any matter of this sort. Then as to the quality of the work done in the two institutions for which I speak—I am quite sure that Mr. Dickson and I agree perfectly on that point, because for many years we have been closely identified in our study of public school and high school work—the curriculum of studies is exactly the curriculum of the high schools word for word. We have appropriated and incorporated it in our calendars and published it to the world, and we live up to it. I speak for the Presbyterian Ladies' College for the last two years, in which, taken together there was only one girl entirely plucked of all whom we sent up to the mid-summer examination, and we advised her not to go because she was too lazy to do her work. I think in the two years somewhere about thirty went up to those examinations, and there was not a single case of a pupil plucked. That is to say, we passed somewhere between ninety-five and one hundred per cent. of all we sent. Now you cannot get any better record than that in any high school or collegiate institute in this Province so far as those examinations go. I am as well aware as any of the rest of you or anybody can be that examinations are not the best test of the quality of education given, but there is good reason to believe we would stand any other test that is applied as well as the high schools would stand it; we look more closely after the mental and moral discipline of the pupils entrusted to us.

Mr. FULLERTON: I may say, as far as I am concerned regarding the two institutions that Mr. Houston has spoken of, I did not speak a word as to the character of the work done; I believe it is high in both. That is not the point I make.

Mr. HOUSTON: I think those two institutions stand as well as any other institutions you could name. But see what has happened elsewhere. In St. Thomas Alma College has been struggling to keep its head above water for years and years, and the struggle has been at times doubtful, sometimes very discouraging, and I am satisfied that if St. Thomas was to tax that college at its property value it would simply be a means of causing a collapse instantly, and I am sure General Superintendent Carman stated so much to the General Committee two years ago in this building. Then take the Brantford Ladies' College; since that time it has ceased to work. The Ladies' College at Ottawa has always been in a struggling condition. I am sure the Ladies' College in Whitby, a very prosperous institution, has never paid a dividend to its shareholders, for the reason that it has absorbed many large bequests. I am sure no institution has paid a dividend except perhaps on mortgage. Havergal Hall and Moulton College and others are fairly well attended, but the people connected with them have a very arduous task, and they have to sail very close to the wind in order to get along at all, and the best of them might be closed and some of them might be reduced to have no standing at all if this tax was imposed.

Mr. GEORGE DICKSON, M.A. (Principal St. Margaret's College): I have not heard all the discussion and do not know what ground Mr. H[illegible] has g[illegible] k,

from all he has said, that he has rather understated it than overstated it. For instance, in regard to the quality of work done in these residential schools, it is infinitely better done than in the high schools. There is every reason why it should be. In the residential school the pupil is taken care of for twenty-four hours; they are constantly in charge of experts in that department of work. In the day school they are with the teacher four or five hours. I want to call your attention to the value of the work done in these schools. It costs to educate one pupil in the public schools of Toronto a little over $22; in the collegiate institute it costs between $40 and $50 per annum for each pupil; so that the work done in the residential schools can easily be appraised, assuming that it is as good and it is the same kind of work; and I maintain that it is as good, because the qualifications of the teachers are just as high as those in the public school system. I am speaking of my own school. I know that we have teachers there who can take positions in any of the collegiate institutes in the Province; they are all university graduates, experts, who have charge of the departments—indeed, in the department of modern languages we are doing more work than they are doing in the collegiate institutes, so that the quality of the work is all right. Now we will take for example a school with 100 pupils. I am sure there are half a dozen schools in the city that have over 200. Suppose it is 100. Based on the cost of educating one pupil in the public schools, that school would do $3,200 worth of work a year, for which they would be exempt only two or three hundred dollars in taxes; and remember these schools are not wholly exempt—they have to pay large sums every year for local improvements. We had to pay nearly $240 last year for local improvements alone. We were exempt for about four or five hundred dollars I think on the property. I do not know whether Mr. Houston has stated these facts or not.

The CHAIRMAN: He has not given us those figures.

Mr. DICKSON: I have taken those figures from the last report of the Minister of Education, and I verified those as to the cost of education for the city. In the public schools the annual expenditure for the year 1898 was $528,098; the number of pupils, 23,327; the cost of each pupil, $22.63, based upon the annual expenditure and the total enrollment. Then in the collegiate institutes the annual expenditure was $66,114; the number of pupils in the three institutes, 1,325; the cost per pupil, $42.30. Now the average of those two is $32.47, so that a school with 100 pupils, educating 100, would be doing $3,200 worth of work.

The CHAIRMAN: Does this annual expenditure of the schools of both kinds include any interest or rent upon the value of the school houses or school grounds at all?

Mr. DICKSON: Not at all.

The CHAIRMAN: It is just the annual outlay for the payment of teachers, and lighting and heating and repairs and matters of that sort?

Mr. DICKSON: Yes, exactly; there might be a little, perhaps, to capital account of the buildings, but not very much, as we all know, in Toronto. Well, then there is another advantage that the city derives from these residential schools. I think that a safe estimate of the number of pupils who come to Toronto for education in these schools that are exempt would be about 500. Now what does each one of these pupils spend? I have heard it variously estimated from $400 to $800. I suppose it is between $500 and $600. Suppose it is $500. Here we have a quarter of a million dollars spent annually in Toronto, distributed among the tradesmen of the city, and surely that is a great advantage. Then there is another advantage that the city reaps from all this. These pupils come from the various parts of the Dominion and from the United States; they come here perhaps to live from a year to three or four years, perhaps longer, and all this means these families become thoroughly acquainted with the advantages of Toronto in every way; they advertise the city, and in that way bring more business to it. So that, taking everything into consideration, I fail to see that the city is going to gain anything in the end by lessening the usefulness of these schools. They are all filled. There is a demand for schools in Toronto. I do not know of a single school that is not filled to overflowing. I can speak of one that has a waiting list large enough to fill it again if it were empty to day; and the more this thing goes on, the more these schools prosper, I feel that the city will benefit by it.

Mr. WILKIE: Do you think that advantage can be taken of the exemption clause to establish [illegible] of learning for the mere purpose of escaping taxation on real estate?

Mr. DICKSON: Well so far as we are concerned that matter could be easily investigated.

Mr. FULLERTON: We are not charging you?

Mr. WILKIE: Not you, but I am asking you the general question.

Mr. DICKSON: I do not know of a case. We pay $1000 a year rent.

Mr. WILKIE: Looking at it from the abstract point of view do you think that it is possible that that could be done?

Mr. DICKSON: Yes, I think it is.

Mr. HOUSTON: That would bring up a question I had thought of speaking of, but had forgotten. I do not think Mr. Dickson, and certainly the Presbyterian Ladies' College I represent, would object at all to having the ground of our exemption changed to inspection, to ascertain whether we are doing efficient work. I would welcome that personally; I think it would be a protection to the public—sanitary inspection, inspection of appliances and other things, the qualification of teachers, the state of the curriculum, &c.

Rev. D. BRUCE MCDONALD: I want to say a word for St. Andrew's College if I may be allowed. I would like to draw attention to one or two points that were raised this morning in the general discussion introducing this subject; and in the first place some one said that they were run for profit—at least he used the expression, hinting that these schools were organized for profit in order that the shareholders might reap some adequate return for their investment. Now while it is natural that those who invest their money in any organization should expect a certain return, at the same time representing St. Andrew's College I think I am justified in saying that it is not formed with any such intention. St. Andrew's College was formed to give to the Presbyterian Church the special advantages of such schools, residential and day school, as are given by schools of other denominations. It is the first and only one we have in our church in Canada. We are prevented under the existing circumstances from anything in the nature of religious training in our public schools, and I suppose while our public schools are public schools that is necessary, because there are representatives of all denominations there. Now, there are a large number of the community who believe that divine religious instruction is necessary for young Canada if Canada is to take the place they desire her to take when the youngest generation takes up those reins which the generation before them must lay down some day; and therefore in our schools we desire to give to our own church, those who support the schools, divine religious instruction alongside of the best secular instruction regarding the studies that can be given. Regarding the quality of the work of St. Andrew's College I have no hesitation in saying that we do as good work as is done in any college in the city. In our first year, last year, we passed seven pupils in matriculation; one boy was plucked; we advised him not to go up; he came to us badly prepared from another college. This year we have a matriculation class of seventeen for the different universities throughout the country, as far east as Dalhousie College, Halifax, and we have an attendance I think of over sixty day pupils, which according to Mr. Dickson's figures means that we have taken off the city this year an expenditure of $1948 for the education of day pupils. Also our schools exist because a large number of the community feel that the public school system and the high school system is not adequate to the occasion. The pupil who requires special consideration does not get it under the public school system, because it naturally has the disadvantage of a large system where machinery must rule, and the fact that so many parents are willing to pay their ordinary taxes to the city and also pay to send their pupils up to such schools as our own shows that the public is not satisfied with the work being done already in the public schools. That question was raised this morning. It was also stated that the state schools do the work, and that was sufficient. Now I submit that the state schools are not doing the work from the point of view of a large portion of the community. The question then arises, can we continue to do the work if we are taxed? We cannot continue to do the work. We would have to move out of the city, and that would be a disadvantage to ourselves as well as the city, and some of our pupils would be thrown back on the city to educate, and in these days nearly at every meeting of the trustees' two Boards they find their accommodation too small in the public schools. I think that feature is one that should be taken into consideration.

Rev. FATHER TEEFY: Mr. Chairman and gentlemen of the Commission: I came here this morning with the expectation that I would hear some new argument urging a

change in the law in regard to exemptions. I was very glad to hear from Mr. Fullerton, however, the kind acknowledgement, the chivalrous one too, that they were so badly beaten in the last investigation that they did not care to resume the question. With Mr. Fullerton I would like to be logical, but I fail to see any logic in the argument on the other side at all. It seems to me that it is a fallacy that logicians call division of composition. One or two individual cases would not prove anything, and here a certain number of institutions are brought up in Toronto which after all, taking into consideration the large amount of property in the city, do not surely prove that all educational institutions should be taxed, while on the other hand if we look throughout the country, the policy that might be dictated from the Municipal Council of Toronto would certainly be very strongly at variance with the public opinion throughout the Province. It seems to me that our opponents are working on a false principle. They work upon the principle that taxes ought to be increased, and the more taxes they get the better the sign of prosperity, or something of the kind On the other hand the taxes ought to be kept down, and there are certain bodies which ought always to be free from taxes. In the first place churches, because they are the house of God, they are places of worship, no matter what their teaching powers may be; they are the places where the Almighty in one form or another is worshipped according to our conscience; and if this country is Christian—and I am sure it is—it would certainly be violating the very first principle and contrary to the foundation stone to go and tax churches. As for the dead, surely we can afford to let them rest in peace without grasping at a few dollars to tax that property. It is contrary to the highest sentiments, to the religious opinions of people, to talk of raising taxes from such property. Now then for education. Education has, I think, throughout nearly all history, been free, and as works of charity also been free; and I do not see what any municipality is going to gain by taxing any educational institution properly so called for the purpose of gaining a few dollars. So far indeed as Toronto is concerned Toronto gains far more reputation, far more money really from its educational institutions both public and voluntary than it does by putting a tax upon them and excluding several of them from the city. It gains in reputation. The majority of my own students come from the United States; and Toronto would certainly have a very bad reputation in their memory and heart if it were not that they came here and saw it under different light. Then they bring money to this city, and money that was not earned in the city, and it is a gain for the city that seventy-five or a hundred boys come here. I have not a single boarder to-day from Toronto; I have something like sixty from the United States, and the balance from other parts of Canada. These young men spend something like four or five hundred dollars in various ways for the benefit of the tradesmen and for the city. They go forth from our institution with I think much more kindly memories of Toronto than they had when they came; and generation after generation passes through the hands of Toronto educationists for the benefit of Toronto. Their friends come during these times of Exhibition, and from a great distance they would not come at all. It is absurd to suppose that they would ever put a foot in Toronto, or land from one of our steamers were it not that some of their friends were educated here. I think that it is most ungenerous and certainly unpatriotic to advocate that the $800,000 worth of property should be taxed simply because it is now exempt. But furthermore, what is the state of the facts? It was only last evening that my own council met and discussed the question concerning the return of the various colleges and houses in charge of the Basilian community, to which I have the pleasure of belonging. St. Michael's College has a clear net gain this year of something like $1,000, but $1,500 out of that came from church returns, so that really there is a deficit from the college of something like $500. But furthermore, these gentlemen are going to tax us, and we do not draw a cent of salary. I draw $80, and I draw my board of course, and with the $80 I must clothe myself and buy whatever books I can with the balance; and yet Toronto proposes to tax us for the difference that it would make to this large and magnificent city. I do not think that that shows anything like a desire to foster education or to cultivate that spirit which I am sure is too deep and too active to be overcome by the prejudice of any radicalism or any socialistic theories which may be abroad to-day. That it just exactly the case with these religious sisters, St. Joseph's Convent and the Loretto Abbey. Loretto Abbey has been here fifty-one or fifty-two years. They came here when the city was young and poor. They devoted their lives to their work; they drew

no money; they became incorporated. Supposing they did? Was it for the purpose of giving the members of that incorporation a dividend? Far, far from it, but just according as they earned money so much the more money did they spend and so much the more money has every religious community of my church spent in Toronto. Every cent earned by the religious communities of Toronto in the cause of charity and the cause of education has been spent for the benefit and welfare of your poor and of those who want to be educated. This is the state of the case. I think it is most ungenerous that a city like Toronto should deem it its duty to present to such an honourable body as a commission appointed by the Legislature of this Province an argument in favour of doing away with such small exemptions as already appear in the Act. I hope and trust that this commission will deal with that subject as the committee dealt with it. Certainly the educationists are working generously and faithfully. We have a right perhaps to money, that is our business, but when the roll call is made I think that the educationists of Toronto will prove that they have done as much for the city as the board of aldermen and the Mayor too.

The CHAIRMAN: Can anyone who has been investigating this subject tell me whether it is usual in any other countries to tax religious and educational institutions?

Rev. FATHER TEEFY: In regard to that, some person mentioned California, but they did away with the Act.

The CHAIRMAN: There had been such legislation at one time?

Rev. FATHER TEEFY: Yes, and the action of that taxing was simply to paralyze the efforts of religion and of education in that country, but I think they did away with it some year or two ago.

Mr. HOUSTON: Restored exemptions?

Rev. FATHER TEEFY: They restored the exemptions.

Mr. DICKSON: There is just one point I would like to bring up in reference to the salaries. Father Teefy has referred to the income of his school. I believe this, that the residential schools of the city are paying about the average salary going in the collegiate institutes or public schools. Last year our school paid upwards of $14,000 in salaries. I do not know what the salary list of one of the collegiate institutes here is, but I do not think they are much beyond that, so you can judge from that they are not two-penny ha'penny concerns that one of our newspapers here would try to make us out.

Mr. WILKIE: I believe you will find that in Mr. Anglin's special report on the subject of taxation.

The CHAIRMAN: Does he speak of California?

Mr. WILKIE: He says that churches and all other places of worship and the land on which they stand have always been exempt from taxation, and they are exempt now except in the State of California.

Mr. HOUSTON: That was a good many years ago.

Mr. WILKIE: This report was in 1893.

Mr. FLEMING: This pamphlet that was published by the City of Toronto on Tax Exemptions some years ago refers to that. It says: "Q. Is it, in your opinion, desirable that the classes of exemptions mentioned in the list sent you herewith, should continue to exist, either in whole or in part? Give reasons for any changes you may suggest. A. Every place of worship and a reasonable quantity of land in connection therewith, but churches should bear their just share of taxation equally with other real property; while owing to the opposite view being conscientiously held by a portion of the community, it may not be advisable to tax them for general purposes, but all such property should pay for all local improvements benefiting the same."

The CHAIRMAN: Who was the author of those answers?

Mr. FLEMING: The questions were sent out to various municipalities. This pamphlet was compiled by Alderman Hallam.

Rev. FATHER TEEFY: That refers of course to glebe land.

The CHAIRMAN: If I am not mistaken the University of Edinburgh was originally established by the Town Council, and maintained so far as that was necessary by public rates.

Mr. HOUSTON: I think so; it was a creature of the corporation.

The CHAIRMAN: The Town Council of Edinburgh had such an appreciation of the value of education that they actually established a University which is the famous University of Edinburgh to-day.

Mr Houston: Yes, and the Town Council still has a large control of the management. I think the Town Council of Edinburgh appoint the Provost of Edinburgh University.

The Chairman: My recollection is that the University of Edinburgh has been so for centuries and I dare say it may be the same in Glasgow and St. Andrews.

Mr. Fullerton: Perhaps I might say a word or two in reply to the speeches that have been made. Rev. Father Teefy in the remarks that he addressed to you found fault with me for not being logical, and I therefore expected him to demonstrate from fact why under some logical system they could escape. I may be wrong in not being able to appreciate the logic, but I did not follow him. I understood from him and from the other speakers so far as I followed them that these schools are voluntary institutions in a sense, that is formed by people—perhaps this may not wholly apply to Father Teefy's case, but in the other certainly so—by people who start these schools either in their own personal interest or in the interest of themselves and of the denominations to which they belong, and that the schools are ran for personal gain or partly so; large salaries are paid to teachers and if there are dividends—as I know there are in some of the institutions—these dividends are paid out. That being so, and not being called upon by the state for any other reason than that they desire to start those schools—take the Veterinary College, the Dental College, the Pharmacy College or any other school, no matter how good the work they are doing—they are working as institutions working for gain for themselves and for their directorate. Their work may be excellent; the object may be the best in the world; the school may be carried on in the best possible way; nevertheless that is the fundamental principle of why they are there, and the fact that they do or do not pay to any large extent should be of no more account in their case than the fact that one merchant does a large and paying business when another struggles along and distributes goods and practically fails. They are there for their own reasons and for their own emoluments. The result may be advantageous to the state, as is almost everything that goes on, but is that a logical reason why they should escape taxation? Now I think that answers pretty nearly the whole ground. I do not pretend to say that St. Margaret's, or the Presbyterian Ladies' College, or Father Teefy's school are not conducted in the best possible way. Possibly it would be the case—though some things Mr. Houston has said would perhaps indicate the contrary—but to a certain extent I think it is the case, that the pupils who do go there would otherwise attend the public institutions and would be taught without extra expense, so as to lessen the amount per pupil in the public schools, because all the schools are not full.

The Chairman: You are building new ones every day.

Mr. Fullerton: Not high schools at any rate; public schools, yes.

The Chairman: And how many collegiate institutes have you got now?

Mr. Fullerton: Three

The Chairman: When will you want another?

Mr. Fullerton: I cannot tell you that, probably not for some time.

The Chairman: Perhaps immediately.

Mr. Fullerton: Perhaps immediately, I am not prepared to say. I should judge from what I have heard that the schools are fairly well filled, not over-filled at all, in fact there is room for more. Now that is the first step. Let us go one step farther. Not one of those schools is under public inspection. These we have are all right. There are a large number of others. They are under some individual or some board of directors of their own motion without inspection, without anything by which the public can say this is being done for a beneficial purpose or even largely for an educational purpose; they start and run in their own way. Now I say they should not escape taxation in any event unless these schools are doing a work under public inspection, and so that they are reported upon and shown to be within the law. And thirdly I say—this is repeating the first argument—that incorporation alone with some teaching going on, and there is no criterion as to the amount, should not be the ground on which they escape taxation. If these schools are to be carried on, if they are doing a good work for the Province, and by reason of that they should escape taxation, there should be some ground or some standard or some mode of gauging the excellence which entitles them to that exemption, not the mere fact that somebody incorporates and starts a school to make money.

Mr. WILKIE: Your idea is not so much to improve the education afforded at those institutions as to see that they are *bona fide* institutions?

Mr. FULLERTON: To see that they are *bona fide*. The first principle I suggest is that unless under state support and state control, other schools that are started as voluntary, as money-making undertakings, should not escape taxation any more than any other business started for the purpose of making money should escape taxation. Secondly, if it should be considered, as it may be, that by reason of the character of the work they do they are worthy of support from the state to the extent of relieving them from taxation, then I say there should be some standard supplied that they must come up to before they escape that taxation. At present we have no standard; each individual school makes its own standard or no standard; and it is quite possible, as Mr. Dickson admitted, for an institution to be started that way or for lands to be added to an institution or taken in merely for the sake of escaping taxation.

Rev. D. BRUCE MCDONALD: I omitted when on my feet before to state that so far as we are concerned in St. Andrew's College we are quite ready to accept inspection of efficiency, of teaching and equipment and work done in the college; there is no objection to that at all.

Mr. FULLERTON: What acreage have you in your school exempt from taxation?

Mr. MCDONALD: We have I think in the neighbourhood of twelve acres.

Mr FULLERTON: With the new addition is it not eighteen acres or upwards?

Mr. MCDONALD: I do not know what the new addition is; that question has not come up.

Mr. FULLERTON: How many pupils have you?

Mr. MCDONALD: We have eighty-seven pupils.

Rev. FATHER TEEFY: Might I ask Mr. Fullerton to what extent this inspection goes? Does it go to whether a college or school is incorporated or to the quality of the work done?

Mr. FULLERTON: What I suggest in answer to that is this: there is an inspection for the collegiate institutes now; there is an inspection for the separate schools in the higher branches. I suggest such inspection as would show that the work is proper, and that in all other respects it is proper, if that be taken as a standard.

Mr. JUSTICE MACMAHON: I understand as far as most of these institutions are concerned, that is boys' schools and colleges, the inspection is to test whether they pass their examination, the percentage according to the number of pupils.

Mr. FULLERTON: That might possibly be made a very good test.

Mr. HOUSTON: In the case of residential colleges, sanitation and fire escapes and things of that sort might be added.

Mr. FULLERTON: The question I asked Mr. McDonald also brings out what seems to me an important factor. There is no limit to the amount of land those schools may own. Twelve or eighteen acres is a very large piece of land in a central part of the city.

Mr. HOUSTON: How much is there in Upper Canada College?

Mr. FULLERTON: I cannot tell you.

Mr. HOUSTON: Boys need larger playgrounds than girls. They may have baseball grounds and football grounds and cricket grounds, and grounds of different sorts.

Mr. FULLERTON: We found a difficulty that crept up in several places in the city, that lands adjoining owned by some person who may or may not be interested in the school are sometimes rented at a nominal sum. I know one case where $5 a year is paid.

The CHAIRMAN: For what?

Mr. FULLERTON: Usage in connection with the school, held that way on a lease which can be terminated on notice, and the land thus escapes taxation, which would be ten times what the rental is, and still gets the advantage of being ready for sale on a moment's notice; yet it is free from taxation because it is occupied in connection with the school. I have two cases in my mind of that character. I do not wish to mention names here, but I could give the Commission the facts in regard to each, and more or less this is used for what we think is in hardly proper ways.

Mr. HOUSTON: Does not the Court of Revision deal with such colourable cases?

Mr. FULLERTON: It is not a colourable case, it is actually used as a playground, but the lease is terminable on no notice, showing that the idea of the man who rented it is to get rid of taxation.

The CHAIRMAN: A lease for the mere purpose of escaping taxation would not stand?

Mr. FULLERTON: So the Judge held, but where a man provides in his lease that he can terminate it at any time he is in a different position.

The CHAIRMAN: He shows his *bona fides* in letting it at a nominal sum.

Mr. FULLERTON: He could not get any more for it as vacant land, but he is holding it for sale purpose.

Mr DICKSON: Just one point as to lands adjoining schools. The case of St. Andrews College is mentioned, twelve acres being called an extensive piece of land. Well, twelve acres is about as small as it can be. You cannot have good athletic grounds with less.

Mr. JUSTICE MACMAHON: In England, the schools on the border of towns and villages have 100 and 200 acres.

Mr. HOUSTON: And Upper Canada College will soon have too little.

Mr DICKSON: Oh, yes.

Mr. WILKIE: Do you recommend taking out the whole of sub-section 2 of section 39?

Mr. FULLERTON: Yes that was what Mr. MacKelcan pointed out, and I agree with him.

The CHAIRMAN: If no one else desires to address the Commission on the subject of exemption, then that subject will be closed and the Commission will adjourn.

The Commission adjourned at 3 30 p m. till 10 30 to-morrow.

TENTH DAY, FRIDAY, NOVEMBER 23RD, 1900.

Present: The same Commissioners.

The CHAIRMAN: We are now preparad to hear anyone who desires to say anything on the subject of assessment of personal property including income.

Mr. MACKELCAN: Following out the principle—if there can be a principle in the subject of taxation—that we put before the Commission at the commencement of the inquiry, that all property which receives benefit from the municipal expenditure should bear its fair share of municipal taxation, I think there is a good deal of personal property which now does not so contribute, but which ought to contribute. Amongst the exemptions there is one relating to household effects, etc., s.s. 28.

The CHAIRMAN: Your proposition is that not only the personal property which is now assessed continue to be assessed but that some property which is exempt should be covered?

Mr. MACKELCAN: Yes, I have already spoken at length with regard to the assessment of the property of merchants which is held for the purpose of profit and which derives large benefits from municipal expenditures. One speaker who was before the Commission referred also to large quantities of valuable personal property not used for business purposes which are equally benefited with property such as merchants' stocks, by municipal expenditure and which escape taxation. Now, I think it is only right that there should be an exemption from taxation of household furniture and property of that description to the same extent as income is exempted, namely, $700. An exemption of $700 from taxation of household furniture would cover the household effects of the average citizen, the ordinary working man, mechanic and employee, but there is no reason why the wealthy should escape taxation on valuable property all of which is receiving benefit of fire and police protection and all other general benefits from municipal expenditure; and they escape the state tax for school purposes which falls so heavily on real estate and other classes of property which are taxed. If that state tax is on principle to be paid by everybody who is a member of the community and gets the general benefit of the education of the people, and which should be contributed according to the means of each inhabitant, there is no reason why the owners of large amounts of valuable personal property of this character should not be assessed for it just the same as a poor man is assessed for his house and lot while well able to contribute. It is a tax that would be but little felt so far as the means of those who would be called upon to pay it are concerned; it would not be a hardship upon them. Of course all wealthy people dislike parting with money, we know that. Probably they are more loth to pay their fair share of municipal

tax than the poor man is as a rule. Judging from what we have heard before this Commission it would seem that the more wealth a man has the less willing is he to pay any taxes at all if he can get rid of it, but I don't think that is a principle that the Commission will be guided by in settling upon taxation that will distribute the burden as far as possible among all classes of the community and distribute it according to the ability of those who are taxed to pay what may be assessed against it. Under those circumstances it seems to me that personal property of the character that I have spoken of ought to bear its fair share of taxation for municipal purposes.

The CHAIRMAN: Did I understand you to say there should be an exemption of personality to the same extent as there is of income?

Mr. MACKELCAN: It seems to me that would be fair and reasonable. That would prevent this being oppressive to the poor man, and give the man who lives in luxury an opportunity to contribute a fair share towards municipal expenditures.

The CHAIRMAN: Then did you say that there should be a distinction between school taxes and other municipal taxes?

Mr. MACKELCAN: No; in Hamilton the school tax is one-third of the entire levy, and as I say that is a Provincial tax, practically a special tax for education, and by exempting property of the description that I have just alluded to from the payment of that tax a larger proportion of it is thrown upon the owner of the house and lot and owner of real estate, and I do not see why this wealth in the form that it exists in the hands of these people should not contribute towards that tax as well as other municipal taxes. It is tangible property which receives practical benefit in the way of fire and water protection and police protection and the other various improvements for which municipal expenditures are made. In connection with that subject I would refer to the exemptions in the country of all horses, cattle, sheep and swine, etc. (s s. 16). Now that exemption seems reasonable and proper enough, for this reason, that the object is to spread the taxation as equally as possible amongst all the property owners of a municipality, and as the land is taxed by the acre and there is about the same average quantity of stock to the acre upon each farm, it would answer all purposes simply to tax the land and let the personal property, which is of the same average throughout the township, go untaxed. It does not in any way affect the general incidence of equal imposition of the taxes that the personal property throughout the township should escape taxation in that way; so that the retaining of that exemption would not in any way affect the justice of what I have just been bringing to the attention of the Commission. In connection with the assessment of personal property I would call attention to an inconsistency between subsec. 23 of sec. 7 and the provisions of sec. 38. This s s. 23, it seems to me, ought to be repealed, because it has led to a good deal of misconception, and in one case in which it was very fully discussed its meaning was said to be very obscure. (Reads the conflicting sections.)

The CHAIRMAN: What particular part of sec. 38 do you say is inconsistent?

Mr. MACKELCAN: Well, this says all personal property which is owned out of this Province shall be exempt, then sec. 38 says all personal property within the Province the owner of which is not resident within the Province shall be assessed like the personal property of residents. You see that property will be owned out of the Province.

The CHAIRMAN: But subsec. 23 says, "All personal property owned out of the Province except as hereinafter provided."

Mr. MACKELCAN: That means provided in this sub-section, I suppose. If it is provided otherwise in a later section it would be better to expunge that altogether.

Mr. Justice MACMAHON: Sec. 38, s.s. 2 says: (Section read).

The CHAIRMAN: Does not subsec. 23 mean a person residing in the municipality when he is the owner of personal property in another country?

Mr. MACKELCAN: Then that is inconsistent with sec. 35. (Reads). Now when we assess a man on his income, a resident in the municipality, he makes a return on his income, we don't inquire from what source that income is derived; we assess him on his income as a resident of the municipality enjoying that income.

The CHAIRMAN: But these sections are not applicable to income. Those three classes you are referring to are not cases of income at all, are they?

Mr. MACKELCAN: Income is personal property and comes under that designation.

The CHAIRMAN: It is dealt with separately, isn't it?

Mr. MACKELCAN: Subsec. 26 of sec. 7 and sec. 35 apply solely to income.

The CHAIRMAN: They are dealt with separately.

Mr. MACKELCAN: (Reads subsec. 26)

Mr. JUSTICE MACMAHON: They both relate to income and nothing else.

Mr. MACKELCAN: The view we take of it is this: a man's income is his income at the place where he receives it, and wherever he lives his personal property, which consists of income, is taxable against him for municipal purposes no matter from what source that income is derived. It may have come from China, Japan, any foreign portion of the globe, but it is what comes in to him at the place where he lives and it is taxable, it seems to me, as such and is intended to be taxable as such; but this subsec. 23 that I referred to only creates difficulty and I think is not in accord with the other provisions of the Act, and I think it would be desirable to have it expunged.

The CHAIRMAN: We see what you are suggesting in reference to these clauses.

Mr. MACKELCAN: Income is usually derived from sources outside the Province. Take for instance a manufacturer's agent whose principals live in Glasgow and who is paid by a salary, he has a residence we will say in Toronto, but he travels all over the Province, does not earn that salary in any particular municipality; if he has no domicile it is difficult to know where to assess him, but if he has a domicile he should be assessable there for his income although he derives it from across the ocean.

The CHAIRMAN: It is a salary which is being paid by his masters?

Mr. MACKELCAN: Yes, and he receives it here. It may go out from there, but it is income here; here is where he gets it and here is where he ought to be taxed for it.

The CHAIRMAN: Certainly. Would there be any doubt about that case?

Mr. MACKELCAN: Well, it has been held in cases that all personal property owned out of the Province—I am sorry that I have not a reference of the case—

The CHAIRMAN: Surely this case you referred to now would not have reference to that, because it has been invoked in regard to bank dividends where the headquarters of a bank are in Montreal and the person owning the stock lives here. He says, "Oh, that stock is owned by me out of the Province, that is in the Montreal register." If it is taxed in Montreal why should he be taxed again here?

Mr. MACKELCAN: We know that he is receiving quite a benefit here, and he is driving on our streets.

The CHAIRMAN: If he has paid taxes on it in Montreal, ought he not deduct that from his taxable income here?

Mr. MACKELCAN: I think not. If he lived in Montreal it is all right.

The CHAIRMAN: He should be taxed twice?

Mr. MACKELCAN: Yes, taxed in one jurisdiction—

Mr. WILKIE: At the same time you tax a man who does not live here and does not enjoy those privileges under sec. 38?

Mr. MACKELCAN: Oh, that is tangible property; that would not be income; income would not be taxed in that way; that would be visible tangible property. We had an instance the other day in Hamilton of a merchant who was assessed for a stock of goods and who appealed against the assessment, and said, "Oh, I don't own those goods, they belong to a Glasgow firm, I made an assignment to them, and although I am carrying on business here that property with which I am carrying on business does not belong to me,

The CHAIRMAN: Why didn't you assess the Glasgow firm?

Mr. MACKELCAN: Well, we are entitled to assess him as agent in charge of it under the statute.

The CHAIRMAN: He was in possession.

Mr. MACKELCAN: He claimed that was property owned out of the Province. They put a double construction on it.

The CHAIRMAN: That is not the meaning of the section. That is a case of property owned out of the Province.

Mr. MACKELCAN: I think not, but both constructions have been invoked.

Mr. Justice MACMAHON: It is property owned in the Province by somebody residing out of the Province, and it is taxable here.

Mr. MACKELCAN: When the property then comes into the Province—

The CHAIRMAN: All personal property situated in the Province ought to be taxed.

Mr. MACKELCAN: Yes, and it seems to me when income comes to a man in the Province who resides here, spends it here, enjoys life here, and has the benefit of all the

municipal improvements here, then he is on the same footing as the man whose income comes to him from a source that is provincial. Now, I may say there was a case in which a distinction was drawn between the dividends from a chartered bank of the Dominion which had a stock register in Toronto and a stock register in Montreal, and it was contended that the income received from the stock that was registered in Toronto was assessable here, but the income derived from the stock that was registered in Montreal was not assessable here although both dividends came at the same time to the same person and upon one bulk of stock, which happened by accident to be distributed between two different registers; he received that income here and spent it here and it was his income in this Province wherever it came from, and so I think he was assessable here for it. Whatever tax any money may have had to pay in a foreign country, an outside jurisdiction that it came from, does not concern us at all when it comes here.

The CHAIRMAN: We must not forget that we are one of a number of confederated Provinces. Would you have a man taxed in Montreal for his dividend and then taxed here in Toronto for the same dividend?

Mr. MACKELCAN: Well, our Provinces are entirely independent of each other.

The CHAIRMAN: That is conceded, but otherwise we are confederated. Could there be any sort of justice in that?

Mr. MACKELCAN: Assume this was a bank in New York, from which he got his dividends?

The CHAIRMAN: Well, you might think it well to spoil the Egyptians, to tax a man here even though he had to be taxed again in New York.

Mr. MACKELCAN; For instance a man owns a large amount of stock and bonds in American railroads and he lives here and receives a large income which he spends here. Are we to separate that portion of his income which comes across the border from that which comes from within the Province?

Mr. WILKIE: Sec. 35 makes no distinction; that is very specific.

Mr. MACKELCAN: I quite agree.

Mr. WILKIE: Subsec. 23 has no reference whatever to income. The only reference to income there is the exemption under subsec. 26, and sec. 35 embraces income from whatever source.

Mr. MACKELCAN: That is my reason for asking that subsec. 23 should be expunged. Personal property out of the Province owned by someone here never comes in reach of our assessors, but income that comes to a resident here comes into this Province to the recipient, and when he gets it as a portion of his income, then as Mr. Wilkie has very properly put it, it seems to me it becomes liable to taxation under sec. 35 of the Assessment Act, and I am only asking to have an apparent incongruity removed by expunging subsec. 23. Now I will read a few lines on the subject of duplicate taxation from Cooley on taxation: "It has been remarked on a preceding page that, when personal property is taxed, duplicate taxation is sometimes imposed. By this was meant that such property sometimes, after being subjected to one levy for the support of government for the current year, is by change of circumstances subjected to taxation a second time for the support of government during the same period. Such a case might possibly occur in consequence of the removal of the property, after the listing in one jurisdiction, into another where the time of listing was later. A system of indirect taxes, combined with a system of general taxation by value, must often have the effect to duplicate the burden upon some species of property or upon some persons, and the taxation of stockholders in a corporation, and also of the corporation itself, must sometimes produce a like result. There is also sometimes what seems to be double taxation of the same property to two individuals; as where the purchaser of property on credit is taxed on its full value, while the seller is to be taxed the same amount on the debt. How this would operate may be readily perceived by supposing the extreme case, that all the property in a town is sold on credit, in which case, if the property is taxed on the purchases, and the debts to sellers, it is manifest that the town taxes twice as much wealth as lies within its borders.

Now, whether there is injustice in that taxation in every instance in which it can be shown that an individual who has been directly taxed his due proportion is also compelled indirectly to contribute, is a question we have no occasion to discuss. It is sufficient for our purposes to show that the decisions are nearly, if not quite, unanimous in holding

that taxation is not invalid because of any such unequal results. It cannot be too distinctly borne in mind that any possible system of tax legislation must inevitably produce unequal and unjust results in individual instances; and if inequality in result must defeat the general law, then taxation becomes impossible, and governments must fall back upon arbitrary exactions. But no such impracticable principle is recognized in revenue laws. While equality and justice are constantly to be aimed at, impossibilities are not demanded. Tax legislation must be practical. It is one of the reasons for levying indirect taxes, and other taxes than those on property by value, that they are supposed to diminish the inequalities that would exist if a single species of taxation only were to be levied. The legislature must judge of the general result, and when the law has apportioned the tax, individual hardships must be regarded as among the inconveniences which are incident to regular government. The same necessity that justifies any taxation will justify and sustain any reasonable provisions for giving it effect. The necessity of the state and of reasonable provisions for the security of the individual must be equally considered; the state is no more to be deprived of its revenue, because of individual hardship, resulting from general rules, than is the individual to be stripped of his property without law, because in its necessity the state finds it more convenient to take it thus than by regular proceedings. The incidental hardship or inconvenience must be submitted to in either case.

These general views have often been declared by able jurists. "Property," it is said in one case, "is liable in many cases to be taxed twice, when it would appear difficult or unsafe to make provision by law to prevent. Thus, stock in trade may be taxed to the owner, while he may be indebted for it to many persons, who may be taxed for those debts or the money loaned to purchase it. Real estate may be taxed to a mortgagor in possession while the mortgagee is taxed for the money secured by the mortgage. . . . So imperfect are all human institutions that perfect equality in the imposition of burdens is not to be expected. These provisions for valuation are not considered to be in conflict with the general purpose to have all property subjected to taxation once, and only once at the same time." "The power to tax twice," it is said in another case, "is as ample as to tax once." (p. 219).

That difficulty to some extent arises in the next branch of the subject upon which I propose to say a few words, and that is the taxation of companies that loan money. I will first refer to life insurance companies. As some members of the Commission are well aware, a large question of this kind arose in the case of the Canada Life Assurance Co. It was taxed in the city of Hamilton under the then existing law for its entire income derived from investments. The income from mortgages, bank dividends and debentures amounted to something over $800,000. In the case of Kingston vs Canada Life (*a*) it has been held that the income of a company should be taxed entirely at the head office—it was not distributable amongst the municipalities in which the company carried on its business, and so the taxation proposed by the city of Kingston was declared to be illegal and void. Following up that decision the city of Hamilton assessed the Canada Life at its head office for all this revenue, and that taxation was sustained by the Court of Appeal. The Government then stepped in and passed this law, the Revenue Act of 1899, 62 Vict. ch. 8., secs. 7, 8, 9. The result of that was that the Canada Life Assurance Co. is now taxed at its head office which has now been removed to Toronto, upon investments to the extent of $100,000, that is the mortgage securities within that municipality. It is assessed for so much of its income as is derived from the municipality in which the head office is situated. Now the income derived from these investments in other municipalities is not declared to be exempt. It is taxable in Toronto at its head office for so much of the income as is locally derived here, and the premiums not being taxable, that means the income derived from local investments. We take the view that the local investments in other municipalities would be a fair interpretation of this and become assessable there. They are not declared to be exempt, but they are declared to be not assessable at the head office. I think therefore they should be assessed locally in the municipality where these securities are allocated—mortgages, investments of a permanent character which pertain to that locality—and we would like to have that Act made clear. We have made such an assessment upon the company in Hamilton, assessing them for $40,000 of income derived from local mortgages, as these are not declared to be exempt.

(*a*) 19 Ont. 453.

The CHAIRMAN: You mean the mortgages on Hamilton real estate?

Mr. MACKELCAN: Yes.

The CHAIRMAN: Does that include all?

Mr. MACKELCAN: In the locality, yes.

The CHAIRMAN: No mortgages on personalty, I suppose?

Mr. MACKELCAN: No, they would not lend on that.

The CHAIRMAN: How about the income from premiums?

Mr. MACKELCAN: That is not assessable at all by the municipality, those have been entirely removed from the assessor, and the Provincial Government has taken the assessment of those instead.

The CHAIRMAN: Under this same Act?

Mr. MACKELCAN: Yes. The statute is not clear, and the matter is in appeal before our County Judge.

The CHAIRMAN: It is being resisted?

Mr. MACKELCAN: Yes, the taxation is being resisted, and we think it is in accordance with the meaning of the Act, and if not we would like to have it so declared.

The CHAIRMAN: Do you propose to confine that to insurance companies?

Mr. MACKELCAN: Well, that is because the insurance company is limited in the municipality where its head office is to local securities in that municipality, and the others are not declared exempt from taxation, and everything that is not declared to be exempt is liable.

The CHAIRMAN: You want the law made clear that local investments shall be taxed locally no matter where the head office of the Company is?

Mr. MACKELCAN: Yes, inasmuch as they are not taxable at the head office.

The CHAIRMAN: Would you apply that to all other mortgage investments—take a citizen of Toronto who has lent money on Hamilton property?

Mr. MACKELCAN: No, because he is assessable in the place where he resides.

The CHAIRMAN: And don't you want to make the law the same for companies as for individuals, and if not why?

Mr. MACKELCAN: We would like to do it, only the Revenue Act does not permit.

The CHAIRMAN: I am not speaking of the existing law, I am speaking of what the law ought to be, because that is what we want you to tell us; we have some information of what the law is ourselves, but the question is whether you want it changed, and if so to what extent?

Mr. MACKELCAN: Our idea is that the taxation of companies and the taxation of individuals should be identical, but in this particular case the Revenue Act has made a provision that is not in the Assessment Act.

The CHAIRMAN: But it relates to assessment.

Mr. MACKELCAN: Oh yes, I know, but I do not know whether we would have any power to ask for any change in the Revenue Act.

The CHAIRMAN: That is not proposed.

Mr. MACKELCAN: And this Revenue Act having prevented the Companies from being assessed at their head office upon their full income and limited the assessment at their head office to so much of their income as is locally derived, the income locally derived in other municipalities ought to be assessable by the municipalities in which the securities are allocated; that is what we contend.

The CHAIRMAN: What I want to know is whether you desire or whether you think it is wise or fair or just to apply the same law to individuals which the Legislature has applied to these companies or the other companies, and as an individual is liable to assessment on his whole income, therefore citizens of Hamilton who have lent money on mortgage in Toronto should be taxed in Toronto and not in Hamilton.

Mr. MACKELCAN: No, what I say is this——

The CHAIRMAN: That is what the Legislature has done with the company, isn't it?

Mr. MACKELCAN: Yes; Your Lordship does not entirely take the point that I desire to make, and that is this: I think that the taxation of companies should have been left just where it was.

The CHAIRMAN: And should therefore go back to where it was?

Mr. MACKELCAN: Well, but it is questionable whether the Government would permit that.

The CHAIRMAN : If this Commission thinks—if it were convinced by you, for example—that it ought to go back as it was, we will recommend that ; what do you recommend ?

Mr. MACKELCAN : What I recommend is this, that their income should be open to taxation to its entire extent just as is that of an individual. Formerly their income was taxed at the head office.

The CHAIRMAN : Except what has been appropriated by the Province ?

Mr. MACKELCAN : Yes. Formerly that income was taxed at the head office. The statute now says they at the head office shall be taxed for only so much of their income as is locally derived from the municipality in which their head office is situated. That leaves the income which they derive from all the other municipalities of the Province free from taxation ; and what we say is that that should not be freed from taxation, and if it cannot be taxed at the head office, as was the case before, then it should be locally taxed in the municipality in which those securities are situated, and from which the interest is derived. That would put the companies on the same footing as the individual, that is, that the entire income should be subject to municipal assessment. And the same applies to trust companies.

Mr. WILKIE : I just want to be quite sure that I understand you. You say that the income of insurance companies is only taxable so far as income derived from investments in the municipality at the head office of that company, and that income outside of the head office is not taxed ?

Mr. MACKELCAN : That is right, which is derived from the locality in which the head office is situated, that is local investments.

Mr. JUSTICE MACMAHON : Everything else you say goes free from taxation ?

Mr. MACKELCAN : Yes.

Mr. JUSTICE MACMAHON : If they had $100,000 out on mortgage in Ottawa and derived $10,000 a year from that, that would escape taxation ?

The CHAIRMAN : It is a premium on making all your investments outside of Toronto.

Mr. PRATT : You have assessed it

Mr. MACKELCAN : We have assessed it in Hamilton, and that comes before the County Judge on the 4th of next month. We do not know whether we can hold it or not. The statute is not clear, but the ground on which we hope to hold is that it is not declared to be exempt, and all personal property that is not declared to be exempt is liable to taxation, and this being now removed from liability to taxation at the head office should be taxable somewhere, and we think the proper place where to tax it would be in the municipality in which the investment is situated from which the interest is derived. Then another important matter comes up in connection with this, and that is that where the profits made in any business carried on in a municipality by individuals are taxable as income against those parties unless their personal property is taxed,—the personal property, stocks of goods, etc., out of which that income is derived, that is the personal property of banks, is exempt from local taxation,—that the bank ought to pay in each municipality where it has a branch or agency an income tax upon the profits earned at that branch or agency. Those profits are quite easily ascertainable. Each branch or agency returns annually or oftener to the head office an account showing the profits made at that branch or agency, and it seems to me that the local municipality should be entitled to an income tax upon those profits. In carrying on that business the local office has all the facilities that the municipality provides, and has them to the same extent as any other business concern in the place, and I think it is only fair that it should pay the same income tax as any other person would pay who—

The CHAIRMAN : Suppose they make money at one branch and lose it at another ?

Mr. MACKELCAN : Then at the branch where they lose it they don't pay any income tax because they make no profits.

The CHAIRMAN : They would have to pay a tax in that case suppose they had no income—income means what is left after paying all expenses and losses.

Mr. MACKELCAN : Suppose from local enterprise great facilities are given for prosecuting business, it is a live going place, and the municipality have endeavoured to make it so by their public improvements, by making the place attractive and giving every facility possible to bring people there, to encourage business, and the result is that in that municipality the bank makes a profit. Well, surely it ought to contribute towards the funds of

the municipality just as much as anybody else earning income in the municipality would be called upon to contribute. Then some other municipality may be in a less flourishing state, and the business of the bank may not be profitable, or mistakes may be made by the local management which result in no profit being returned to the head office. In that case, I would not ask the bank to pay anything for what they did not earn; but when they do make profit, share in the general prosperity of the municipality, they ought to be willing to contribute their fair share towards the general expenses of that municipality.

Mr. WILKIE: That would be in addition to the income tax—the same income divided among the shareholders?

Mr. MACKELCAN: Well, you see that profit goes to shareholders resident in Montreal and England and all over the world, and in that way we get no portion of the benefit. If we get the direct, immediate benefit of the profit that was directly and immediately made in our own locality it seems to me that would be a fair way.

Mr. WILKIE: And that would be in addition to the Provincial tax, and in addition also to the tax on the property occupied by the institution?

Mr. MACKELCAN: That is the real estate tax, of course.

Mr. WILKIE: What benefits do they receive from the locality outside of that?

Mr. MACKELCAN: Just the same benefit as any other owners of real estate.

Mr. WILKIE: That is to say, a manufacturing concern would only pay on its own income, but the income from an institution such as a bank would pay on its net income and then on its income divided up among its shareholders?

Mr. MACKELCAN: No, we propose that manufacturing concerns shall pay on its personal property, not on its income. If you tax the personal property out of which the income is derived then you don't tax the income, but the personal property in banks is exempt, they have a large amount of personal property in the municipality, large sums of money that are their own property and that are really being protected by our police and municipal authorities at no cost at all so far as that personality is concerned the personalty of banks being exempt from taxation. Well, we think that as they don't pay on the personal property itself, which is being protected and benefited, that to ask them to pay upon income or profits derived from it in that locality is only a very modest request on the part of the municipality, and as compared with taxes that are imposed on the ordinary citizen the impost is a light one. I don't think it ought to be complicated with the question as to whether those shareholders, when they get their dividends, will pay any municipal taxes or not. I can instance half a dozen banks doing business in Hamilton where $10,000 of their stock is held in the city; it is held all over the world, Montreal, Great Britain, Toronto and other places where there is an accumulation of wealth, and those who are receiving the income are paying nothing in the way of municipal taxation except upon their real estate. It seems to me that is one of those cases where there might be individual cases of double taxation. That is the reason why I read those extracts from Cooley on Taxation, to show that even though that might be the effect in individual instances, it did not militate against the legality or propriety of the tax. I would also call to the attention of the Commission what has been mentioned before, that whereas the shareholders are liable to taxation upon their dividends, a very large proportion of the profits of the banks are carried to the rest account, so that in our older and larger banks the rest account is more than fifty per cent. of the original capital; and now all that profit that has been carried to rest account in that way has never been taxed as the personalty of the bank has not been taxed, and as the accumulated profits of the shareholders have not been taxed, that portion only of those profits that has been paid out in dividends having been liable to local taxation. There is no other branch of the subject that occurs to me at the moment

Mr. WILKIE: Why do you single out banks? Do you intentionally do so, or does the same remark apply to other companies? Loan companies, for instance, that have almost the same powers, and other companies that do almost the same business? I do not know whether you intentionally did so.

Mr. MACKELCAN: In this way. We have asked that the property of all incorporated companies except banks should be taxable. If you remember on the first day of the sittings of the Commission with regard to taxation of personal property of merchants and other incorporated and trading corporations we have asked that the property of all those companies should be assessable in the same manner as the property of individuals, but

we excepted the banks. We did not ask that the personal property of banks should be assessed, because it is in great measure the property of the customers of the banks held in security for the purpose of carrying on the general business of the country, and immense amounts of money and securities are held in that way that are not the property of the bank. The bank does a business probably to the extent of four or five times its capital, doing that upon deposits, money that it is able to make, to issue; if it has not the gold to back it, it has certificates and deposits; it does a very large amount of business, very much beyond its actual capital. It would be very unfair to tax all that personalty in the hands of the bank; but while they are held temporarily, and as far as the great part of it is concerned permanently owning that property, it is all declared to be exempted from taxation. Well, we say when they are receiving exemption beyond that which is given to any other class of corporations, they should at least pay a tax upon the income which they derive in various municipalities where they have branches or agents; so that instead of seeking out the banks for an invidious or heavier method of taxation, the idea is rather to treat them liberally and ask them to pay a tax only on their income and not on their personal property at all.

Mr. WILKIE: You omit loan companies altogether?

Mr. MACKELCAN: Oh, no.

Mr. WILKIE: The personal property of loan companies?

Mr. MACKELCAN: That is liable to taxation now. All their furniture, and all personal property of that kind, and we are asking now that they should pay an income tax on the investments in the municipality.

Mr. WILKIE: You include them in this argument?

Mr. MACKELCAN: I included them in the earlier portion of my argument.

Mr. WILKIE: You put them on the same level?

Mr. PRATT: Do I understand you place life companies and loan companies in the same position?

Mr. MACKELCAN: If I did refer to life insurance companies coming under sec. 7, I also referred to loan companies under sec. 8 and trust companies under sec. 9 as being, I thought, in the same position, and that they also should be treated in the same way and be taxed in each municipality for the revenue derived from securities that are local to that municipality.

The CHAIRMAN: Does 62 Vict. apply to loan companies?

Mr. MACKELCAN: Yes, these sections I have cited, 7, 8 and 9, refer as I have mentioned—sec. 7 to insurance companies, 8 to loan companies and 9 to trust companies.

The CHAIRMAN: You put them on the same footing?

Mr. MACKELCAN: Yes, practically.

The CHAIRMAN: That is to say, they are assessed on the investments which they make at the head office?

Mr. MACKELCAN: Yes.

The CHAIRMAN: And the Act is silent as to investments made elsewhere?

Mr. MACKELCAN: Yes.

The CHAIRMAN: And you say it ought to speak with regard to those investments made elsewhere?

Mr. MACKELCAN: Yes, say whether they are or are not to be subject to local taxation in the municipality where they are situated, just as those that are localized in the municipality where the head office is are subject to assessment there; and I would put banks very much in the same position in this way, that they should pay the income tax upon the profits they make in each branch or agency.

The CHAIRMAN: The Commission has received a written communication from Messrs. Bruce, Burton & Bruce, on behalf of the Canada Life Assurance Company, indicating their view on the subject, and it might be convenient to have it read now.

The SECRETARY read the communication. (*a*)

Mr. MACKELCAN: I argued the question in the Court of Revision; they heard both sides.

Mr. J. K. MACDONALD: May I intervene just here on behalf of the Life Managers' Association, which wishes to be heard before the Commission, and I have been asked to

(*a*) See No. 18 in Appendix A.

request you to give us an appointment a week from to-day to follow out the very point that has been made in the letter just read. I didn't know that letter was before you, but it seems the proper time that I should bring the matter up.

The CHAIRMAN: We appointed this day and to-morrow to hear everybody who had anything to say on this very subject, and that has been made generally known.

Mr. MACDONALD: Circumstances have been such that the life companies could not very well be got together. They were gotten together, part of them yesterday, and it was agreed that they could be fully prepared on Thursday, and asked you to give them that appointment on Friday.

The CHAIRMAN: They have been doing so much business that they have not had time for the last two months to do that.

Mr. MACDONALD: Well, we have been certainly very busy.

The CHAIRMAN: We will have to consider that.

Mr. MACDONALD: The subject is a most important one. It has only been referred to or touched upon by that letter. It is one on which we are most anxious to bring the full particulars before yourself and the other members of the Commission, and it is a matter that will demand some time on your part, and that is one reason why we are most anxious not to come before you until we are fully prepared, and prepared in such a way as to conserve your time in presenting the facts and arguments from our standpoint.

The CHAIRMAN: Is it conceived that your company has a grievance?

Mr. MACDONALD: Yes, our Life Managers' Association represents all the British and Canadian companies operating in Canada, with, I think, one or two exceptions, and they represent a very large interest, as you will readily understand, and they consider that we are suffering a very heavy grievance at the present time, and one that we have presented to the Government, and, if I may venture to say, sir, I think that the presentation of our case to the Government has had something to do with the enquiry that is now being made, and we would like to give you the very fullest information we can.

The CHAIRMAN: I am very sorry you are not ready to proceed to-day or to-morrow.

Mr. MACDONALD: I am very sorry myself. I might explain that we have to consult representatives of other companies from various points, from Montreal and the west, east and west, and it is not always possible on the spur of the moment to call these representatives together.

The CHAIRMAN: We have already made an appointment for Thursday of next week. Do you think Thursday afternoon might suit you?

Mr. MACDONALD: We will make it suit, though it is a day earlier.

The CHAIRMAN: The other subject may not occupy the whole day Thursday; on the other hand the other subject may take the whole of Thursday, but it is very desirable to economize time as far as possible.

Mr. MACDONALD: We will be on hand on Thursday afternoon.

The CHAIRMAN: We will say Friday at half past ten.

Mr. MACKELCAN: There is one branch of this subject of income tax that I think it necessary to refer to by reason of the provisions of the Revenue Act, which says "Premiums." In one municipality I know of a fire insurance company making large profit every year, with their premiums very much beyond the losses they have to pay, and that large profit arises from our municipal expenditure, that is to say, from our excellent fire protection and ample water supply we are able to keep down the losses to a point that gives the insurance company a large profit on the premiums that they receive. Now, before the passing of this Revenue Act of 1899 we were in the habit of charging each branch or agency of the insurance company the ordinary municipal tax upon its local profits for the year. A fire insurance company differs from a life insurance company in this way, that the life insurance company so far as its general insurance business is concerned can scarcely be said to make local profits. The profits are made up at the head office; it is from the results of the general business of the company extended over a very large area; but so far as the local fire insurance agents are concerned, every branch can make a return showing the premiums received and the office expense and showing the losses incurred and paid. There is a clear balance sheet of profits and loss for this local office every year. The income is readily ascertained. That profit is made simply from the liberal municipal expenditures that are in the interest of the fire insurance companies as they are of the owners of village and other insurable property.

The CHAIRMAN: What would you like to have done?

Mr. MACKELCAN: I would like to have the power to tax income just as before the passing of this Revenue Act. We don't ask to tax the premium but we ask to tax the profits made.

Mr. WILKIE: The net income?

Mr. MACKELCAN: The net profits on the local business of fire insurance companies. If that is precluded by the terms of the Revenue Act I would ask this commission to recommend such change be made as to enable us to tax that income, because that is income that is eminently derived from the beneficial results of municipal expenditure.

Mr. WILKIE: That would really be a tax upon the insured; the companies would not pay it?

Mr. MACKELCAN: Oh, yes.

Mr. WILKIE: Oh, no, they would add it to the premiums, because here in Toronto we know that the rate of premium depends entirely upon the amount expended by the city in fire protection. The insurance companies would decline to reduce their rates, and did decline for a long time owing to the insufficiency of fire protection, so that it really comes down to the insured. They would pay any tax put upon the companies.

Mr. MACKELCAN: With us the insurance companies threatened to raise the rate, although they were already making a big profit, if we did not spend two or three hundred thousand dollars in extending our water supply. We raised the money and improved the water supply, and at the same time those very fire insurance companies stepped out from under their liability to pay us the income tax out of their local profit. The Board of Underwriters are the men that come there and demand that we must do this, that and the other or they will cancel all their policies of insurance, and then when it comes to assessing them, they say, "You cannot make us pay anything, this revenue law lets us out." Now we want to get a little something at any rate from them in return for all the expenditure and all the profits they get out of our city, and it is suggested to me by the assessor that since they have ceased to pay taxes on their income they have not reduced their premium rate, it is the same rate as when they paid the tax.

Mr. WILKIE: Perhaps they think they should have otherwise advanced them?

The CHAIRMAN: I understand there is a considerable body of opinion that the taxation of personal estate ought to be abolished altogether. Is there anyone here who proposes to discuss that question?

Mr. MACKELCAN: I say that that would be an outrage on the poor tax-ridden holder of real estate. He pays now a great deal more than his fair share, it seems to me.

Mr. JULIAN SALE, (Manufacturer, Toronto): I shall occupy but very little time. I shall endeavour to state as far as possible the opinions of myself, and confine myself as nearly as possible to the presentation of facts. I come not as a representative of any peculiar interest, although I might do so. I thought by observing the proceedings of the commission that we might lay the suspicion for doing that sort of thing upon people coming here representing different kinds of interests. It seemed to me as though they were seeking to lift from this shoulder the burden over on to the other shoulder. Now I prefer to represent the 220 odd thousand—

The CHAIRMAN: That would be the proper thing to do if it rests unequally and unevenly at present. It is one of the very questions we have to consider, whether there is any inequality at present that ought to be relieved.

Mr. SALE: I have not made myself clear. The mere shifting of burdens from one section of the community, the storekeeper, or the wholesale importer, on another section of the community, will not make any difference from my standpoint. I wish to represent the people who pay the taxes, that is all these taxes that we are considering this morning, the personalty tax. In that capacity, if anything further can be said in condemnation of the personalty tax I would like to be able to say it. While I agree perfectly with all that has been said before about the inequalities, the difficulties of raising that kind of a tax, and while those arguments are quite sufficient for the sweeping away of any such taxation, I take an entirely different ground. My position is that the personalty tax is inherently bad, and therefore to the extent to which it is imposed the worse it is for the people. I think I can show that. Now we as manufacturers, storekeepers and importers pay large sums to the city of Toronto as taxes, and we come here

and we appear before the Courts of Revision and other places, and pose as large taxpayers. Every dollar that we pay we collect. We collect that dollar and perhaps a dollar and a half perhaps a dollar and a quarter, whatever the advance may be, from the people who buy the goods upon which the tax is laid, the goods in our possession. Now therefore this personalty tax is paid by the people, by the consumer. Now I want to try to show who, under the personalty tax, is the heaviest taxpayer, and I think I can demonstrate that it is the poorest member of the community. As a consumer of course the poorest man consumes everything he gets. The man at a dollar a day has not got enough to consume, in my humble opinion, but he is a consumer to the full extent he can. Relatively speaking that man is the heaviest taxpayer under the tax on personalty; so that in applying the principle of taxation according to ability to pay, as evidenced by the tax on personalty, we only succeed in laying the heaviest burden on those who are less able to pay. Now, leaving that, there is another principle which has been put forward here before the commission—that we should levy taxes according to the benefits conferred by the community. Now, I do not think that that is put sufficiently clear. That idea was first put forward by a very great man, no less than Adam Smith. I think legislators have largely endeavoured to follow the principle therein laid down. It commends itself as just, as right, but it may occur to you a little more clearly if I put it this way: that we should pay into a common fund in proportion as we are benefited by the expenditure of the common fund. Now, legislatures have largely endeavoured to do that, but they have defeated their own end by the false assumption that the measure of the benefit conferred upon the people was to be found in the goods which they possessed. If I build a warehouse and stock it with goods, the expenditure of public money in beautifying the city and improving the streets cannot add one dollar of value either to the warehouse or the stock of goods, cannot add any pecuniary value.

The CHAIRMAN: I did not catch that.

Mr. SALE: The expenditure of public moneys cannot add a cent of value to my stock of goods or to my warehouse, therefore I derive no pecuniary benefit in that way from the expenditure of public moneys. But nevertheless I do derive a substantial benefit from the expenditure of public moneys. Now how are we to measure that if it cannot be measured in my goods? If my goods are not increased in value, if my warehouse is not increased in value by the improvement of the streets and fire protection, etc., how are we to measure that value which does come from the expenditure of public moneys in improvements? I think I can show clearly, and I propose to do so by taking two or three examples. Begin at the bottom of the scale, the mechanic. He of course, like all the rest, should pay exactly in proportion to the benefits conferred upon the community. Let us say that he lives in a house that costs $600, which stands upon a piece of ground which cost $200, and let us suppose that he pays $6 a month rent. Now, gentlemen, the measure of benefit conferred upon that man by the improvements in this community is exactly $18 per annum; that is to say, that proportion of rent which he pays which falls upon the $200 of land value. He pays $1.50 a month rent for the $100 of land value, and he pays—and rightly pays—as he does in that case, $4.50 a month as return for capital, wear and tear, in the house that he occupies. Now he cannot escape either of those payments; and he hadn't ought. That is his correct contribution to the capitalist who owns the house and to the community which makes his lot worth $1.50 a month. Now I am not here to advocate any scheme of taxation. As I said I want to present facts If they are not facts I want to know it; but it does seem as though these facts, if they are facts, the testimony of history, the testimony of our own experience, everything seems to drive us in one direction, and that direction is to begin with certainly the abolition of taxation on personalty. As a step in the right direction I would advocate the wiping away of personal taxes altogether. They are an utter failure. And as another suggestion, more with the hopes of provoking discussion so as to accelerate the movement towards a right system, that in some way the government should allow people to regulate these things for themselves. It has been suggested that if the government would pass an Act giving the municipalities a right to raise the revenue in such manner as they see fit, that it would ultimately result in the right method being discovered. That has been called local option in taxation. I do not think that would be a bad idea. We ought to trust the people to that extent. That is all I have to say.

Mr. WILKIE: How would you replace revenue that would be lost by doing away with personal taxation? You have not explained that.

Mr. SALE: The taxation of personal property in the city of Toronto is, I understand, eight per cent. only of the total revenue, so that it would not make a very serious difference if that eight per cent. was distributed over the other subjects of taxation which now bear it. Certainly the considerations in favour of the abolition of personalty tax outweigh any such considerations as those, I should judge.

The CHAIRMAN: I understand you to say too, that in your opinion the tax should be upon the land as distinguished from the improvements on the land, from the buildings?

Mr. SALE: To carry the idea to its logical conclusion, of course the house is personal property just the same as the furniture in it, and ultimately to get a perfectly scientific and natural system of taxation, I contend that that is where we must go with that $1.50.

The CHAIRMAN: If that was applied practically to the existing circumstances in Toronto, would it not be confiscation of the land values?

Mr. SALE: Well, you have to choose between allowing one section to confiscate or the other.

The CHAIRMAN: You admit then it would really and practically amount to confiscation if it was applied to-day?

Mr. SALE: No, sir, we want to stop confiscation.

The CHAIRMAN: What do you say in answer to my question then?

Mr. SALE: That it would confiscate? I don't think so.

The CHAIRMAN: Would it not increase the burden on land values enormously?

Mr. SALE: Yes.

The CHAIRMAN: At once?

Mr. SALE: Yes.

The CHAIRMAN: Enormously?

Mr. SALE: Most decidedly.

Mr. WILKIE: I think you said only eight per cent?

The CHAIRMAN: That was if personal assessment was abolished. I am asking now suppose this principle was carried out and the buildings and improvements were exempt.

Mr. SALE: Of course I don't go so far as that.

The CHAIRMAN: That is the question I wish to ask you.

Mr. SALE: I don't wish to advocate what at present appears a chimerical idea. I simply give you these facts and ask you if the force of logic, if the force of experience, does not force the Commission in that direction.

The CHAIRMAN: We don't want to rest upon mere theory or what would be Utopian, but we want to get something practical, something that it would be just in existing circumstances to do, and it is there we would like your assistance, and I can quite see you are capable of giving us assistance.

Mr. SALE: I would contend that at present we pay double taxation. Some complaints have been made that this double taxation occurs. Now if that poor man pays that $1.50 a month, which is the reflection of the value to that piece of property of the expenditure of public moneys, and then is taxed again, don't you see he is paying double taxes?

The CHAIRMAN: He is taxed on his personalty?

Mr. SALE: He is taxed on my personalty. I make him pay that; I don't pay any personalty—I make him pay that; I don't pay any taxes at all.

The CHAIRMAN: You say he is taxed on his butcher's bill?

Mr. SALE: Yes; everything that he consumes. If you want a personalty tax that is applied and administered scientifically and correctly, and I may say justly administered, we shall have to go beyond the scope of this commission and refer you to a protective tariff. That is an example of a personalty tax that is enforced fairly, efficiently and justly so far as its equality is concerned.

Mr. MACKAY: Do you advocate the levying of taxation on the land and improvements in addition to personalty?

Mr. SALE: Yes, as a step in the right direction I advocate the taxation of real estate.

Mr. HUTTON: Does that include also the abolition of income?

Mr. SALE: Yes, sir, because income is open to the same objection as a tax on personalty, although not to the same extent. Income is open to far less objection than a tax

on personalty, because in very many cases income tax is paid by the party on whom it is levied. In some cases it is transferable in the same manner as a personalty tax.

Mr. WILKIE: You are not arguing the single tax theory throughout.

Mr. SALE: No, sir, I am not, but I contend this, that the facts which I represented force us towards that theory. I don't want to be chimerical, I don't make any proposition of a single tax on land values, but we must get in that direction. The personalty tax has proven an utter failure; there is nothing left but realty.

Mr. HUTTON: Raise it all on the realty?

Mr. SALE: Yes.

Mr. JOHN ROWLAND: I have read in the papers and it seems to be the general opinion that property of all kinds should pay for the protection that it receives. I think that has been the tendency from what I have read, and there has been a good deal said also by some parties that everything should go with property, that property should pay for everything. Now I quite agree with a former speaker, who I think if I understood him right, said that every class of property, every person, should pay for the benefits received; and for that reason I claim that property in merchandise, that household property and that sort of thing, should pay for the fire protection, for police protection, for educational purposes, for everything of that sort. There is another class of property that does not require any of those things. I refer to land. We all know there is a great deal of land around Toronto that is not occupied in any way; it is bringing in no revenue; it requires no fire protection; no educational advantages, no police protection; it asks nothing but to be let alone; nobody has ever attempted, that I have heard, to run away with a lot in the vicinity of Toronto, to sell it, and even the mortgages that have been on a good deal of the property in Toronto, they have not tried to run away with. We want no protection at all of that sort, and yet there are certain people who want to put all the debt, the taxes, on that piece of property. We get nothing for it. There is nothing asked from the municipality. The only thing possibly is that the man who owns property wants a roadway, but even that in a great many cases he does not use; others use it, who, it seems to me, should pay for it. Where I lived last year we had a new roadway put down, very few people on that roadway used it to any extent, but a great many heavy teams found it a convenient way to get to a certain section of the city that is now being paved, and they used that roadway, and from early morning till five o'clock in the evening they have been wearing it out, and we have the pleasure of paying for it. I most certainly protest against any such faddism as the single tax, that can never be honestly carried. The property owners of Toronto have been paying a single tax for a good many years now, or the equivalent of it. If the taxes on real estate are increased certainly it will be equivalent to confiscating it. We have paid a great deal more than our share, more than I think we had any right to. Every person and every property should be taxed just in accordance to the protection and what they ask and demand from the city, and therefore I claim that real estate, the land, should have the lightest part of the tax, because it does not ask anything of that sort.

Mr. WILKIE: Is that vacant land you refer to?

Mr. ROWLAND: Vacant land. Land or property that is bringing in return, that is very well; but the idea of putting all the taxes on vacant land! On land alone where there are buildings, the buildings receive protection; it is very right that they should. If I have a home or a property, I ask fire protection, I ask the police to protect that property, and I should pay for it.

The CHAIRMAN: And vacant land should go free, then?

Mr. ROWLAND: Very largely; I think that should be the tendency of it. I know that the single taxers talk a good deal about the increase that accrues to vacant land and no thanks to the owner of it. Sometimes, as it is in Toronto, it goes the other way. Do they propose then to make that up? Another thing in reply to the single taxers is this: The land was sold in the olden time, the people of the country owned the land; but some years ago, further back, the land was sold to the individual proprietors by the people through the Government, and now the single taxers, after having sold it once, come and say the Government should take back this land, or in other words confiscate it, making the people who are the owners of it pay a rent. I would just say that the owners of real estate in Toronto do pay big rent; in fact, I do not see how they could pay

any more if the Government took the land and leased it to each of the individual owners now owning it.

Mr. ALAN C. THOMPSON: Mr. Chairman, I would like to say a few words. It is hardly necessary for me to refer to the fact that land, whether vacant or otherwise, gets the chief benefit for public expenditure. There is one thing that is even patent to the average property owner of Toronto, and that is that the amount of vacant land in the city has enormously increased the cost of government of the city both in requirements for the roads, sidewalks, police and fire protection and lighting, etc.; and on that ground, if on no other, they should pay a fair share of the taxation, whatever that may be.

Mr. ROWLAND: Excuse me, they pay that in the local improvement.

Mr. THOMPSON: Some of it. Sometimes they pay too much.

Mr. ROWLAND: Yes, they do.

Mr. THOMPSON: Sometimes it pays far too much, sometimes it does not pay enough. But supposing we had a lot in the centre of the city, that was specially exempt from fire and police protection, that the police would not protect that lot, and if it burned down the fire department would leave it alone; would the value of that lot be as much as the value of the adjoining lot? However, that is aside from the question which is before the meeting to-day. It has been shown, I think without any doubt, that it is impossible to collect a tax on personal property fairly. It is one of those things which experience shows us that the poor pay and the rich don't pay, and I mean by that not in the sense, as Mr. Sale has shown, that it is an indirect tax and passed on to the consumer, but I have a few facts here gleaned from the assessment department of Toronto and also from the last municipal returns of Ontario. I find in 1886 the total assessment on real property was $662,000,000, on personal property $51,500,000, and income $10,500,000 in round numbers. That means to say that the percentage of personal property was seven and a half per cent. of the total assessment, income one and a half per cent.; this is for the whole of Ontario. In 1898 the assessment of real property had increased to $771,000,000, an increase of $140,000,000 odd; the personal property in Ontario had decreased to $27,500,000, very nearly one-half of the actual amount; the income remained about the same. The percentage of personal property, though, with regard to the total assessment, had fallen to three and two fifths per cent. of the total assessment of Ontario, while the income had fallen down to one and a quarter per cent. Now, when we turn to the city of Toronto we find similar facts.

The CHAIRMAN: In 1898 the proportion of personal property was three and two-fifths per cent of the whole?

Mr. THOMPSON: Of the whole.

The CHAIRMAN: And income is about one and a half?

Mr. THOMPSON: Yes.

The CHAIRMAN: In addition to the three and two-fifths?

Mr. THOMPSON: Yes. When we come to the city of Toronto, in 1871—I haven't the figures separately, personalty and income are included together—the percentage was 24.6; in 1876—I have taken them every five years—it had fallen to 19.4; in 1881 it was down to 17.6; in 1886 it was down to 16.3; in 1891 it fell to 10.4; in 1896 it was down to 9 per cent; and for the present year, that is 1901, it had increased to 10.9 per cent.; that is largely caused by a reduction in the assessment of real estate rather than by an increase in personal property assessment, although there is a slight increase. Then when we take the *per capita* assessment of personal property, including income—I have the figures only from 1877—we find that in 1877 it was $97 a head, in 1881 it had fallen to $84 a head, in 1886 it was down to $68 a head, in 1891 it had fallen to $58, in 1896 it is $46, and the same for the present year. So that you see the city of Toronto has been growing poorer and poorer every year according to the assessment; and I may say this, in making this statement I don't wish to make any reflections upon the assessment department of Toronto—I think they do their work as well as the nature of the task will permit; but what I think is that the richer the community is the greater and greater is the difficulty of finding out where personal property is. In the country everybody knows pretty nearly what a man is worth. In the city a man's partner frequently hasn't any idea of the extent of his possessions. Now I want to take a few examples of how this personalty tax works out in country municipalities. The Township of York is assessed for $5,768,000; it has no personalty. The Township of York is a poor township, as you

would infer from that. The income is only about $7,000, less than a tenth of one per cent. of the total assessment. Now, in the same county but in a different township, that is Etobicoke, we have an assessment of $1,800,000 realty, about a third of what it is in the Township of York, but the personal property there is $14,000. A very much poorer township is assessed for $14,000 personalty property, still it only represents three-quarters of one per cent. of the total assessment. When we come to Middlesex, another very wealthy county, the Township of London has over $6,000,000 of real estate and no personal property; it has $2,700 income only, that is .06 per cent of the total assessment. Then in Ekfrid, another township in the same county, we have nearly $2,000,000 of real property and $33,600 personal property; that is 1.6 per cent, a very much larger amount than is usual in the wealthy township. But when we take Muskoka, we have one township there, Stevenson, with an assessment of $122,000, which is assessed for $13,000 personalty—over 10 per cent.; and while there are exceptions, the tendency is that the poorer the municipality the larger per centage does the personalty property bear to the realty.

The CHAIRMAN: What year is that you are speaking of?

Mr. THOMPSON: This is for 1898. These are all taken from the municipal statistics for Ontario for 1898. In Bruce, in the Township of Carrick with an assessment of two millions, we have a personal assessment of only $16,000, representing one-fifteenth of one per cent. In Greenock the realty is assessed for $1,300,000 odd, and the personal property is assessed for $36,000—a poor township, very much poorer, only about half as wealthy as the other; instead of being four-fifths per cent. it is two and four-fifths per cent. of the total assessment. Then in the same County, Lindsay and St. Edmunds, with an assessment of $83,000 on realty we have $8,000 personalty, another case of over ten per cent. The fact we gather from this is that the poorer the place the more accurately can the personalty be assessed. Now it is evidently customary, as Mr. Paul Campbell stated, not to assess personalty in the country districts, and we see there is no personalty assessment in the Township of York, yet the law provides for assessment of personal property. There is none in Middlesex, yet the law provides for it. It is only in the poorer townships that they assess personal property. In the very wealthy sections they leave that out, so that the law is evaded because I suppose they find it practically impossible to carry it out.

The CHAIRMAN: What inference do you draw from all that?

Mr. THOMPSON: I infer that when you cannot do a thing you try to do it is a good thing to stop trying. You cannot tax personal property with any approach to equity, and when you have a law on the statute book to that effect it simply means that the poor people will pay it and the rich will escape. There is a point as to the inexpediency of taxation of personalty. Personalty is something that we all want and the more any community encourages the production of personal property in its midst, the more it encourages the location of it, because if it is produced in one community and located in another the more valuable does the land in that community become. Where you find large aggregations of personal property it means either it is a good place to live and people want to go their to live, or it is a good place to do business and people want to go their to do business; so that in addition to the fact that the abolition of personal property tax would add such a trifling burden to the real estate and take such an enormous burden off the conscience of the assessor, if not off his mind, it will add also to the value of the real estate and so increase the capabilities of the community to produce revenue by taxing the land which can be assessed equitably. It is no trouble to find out the value of land; it is considerable trouble to find out the value of these personal properties, as Mr. MacKelcan I think has shown you by his attempts to explain the working of the present law. Now, Mr. MacKelcan has again referred to the principle which we believe in, that is taxing according to benefits received from the expenditure of public money; but unfortunately in stating that principle he immediately begins to assume that that benefit can be measured by the extent of a man's worldly possessions, when it is patent when you look into it that the benefit a man gets from government will be accurately determined by the value of the land of which he has exclusive possession, as a little thought will show.

Mr. MACKELCAN: Supposing he has no exclusive possession of any land, then what?

Mr. THOMPSON: Then he has to pay somebody for that privilege. A man must

have exclusive possession, some man, or he cannot live, and the only man that is not in that position is a tramp.

Mr. MacKelcan: He can find a bed somewhere.

Mr. Thompson: Then he has possession for the bed; that has got to stand on land somewhere, and if he only has a bed he does not use land very much, therefore he gets very little benefit from Government, and should be taxed accordingly.

Mr. John Rowland: It is an admitted fact that the tenants of Toronto have not paid the taxes in Toronto for the last five or six years.

Mr. Thompson: I don't see that that has got much to do with the point. Now there is another question in regard to school tax. It has been alleged that personal property is benefited by school tax and by other expenditures; but in considering where a person will locate, all things being equal he would prefer to locate in a town where there was good school accommodation and where it was free; consequently any such public benefit as that will add to the attractiveness of a town, and to its population and add to its capabilities of doing business, and add to the value of real estate, but it certainly will not add anything to the goods on a merchant's shelves or the possessions of a private individual. You must remember that all these things—stocks in trade, personal property of individuals—can be moved out, and if you tax them heavily they will move out, and then whether they will remain in the country or not will be determined very largely by whether the taxation is sufficiently onerous here and sufficiently ignored elsewhere, to warrant them in moving out of the country entirely. You should tax land which cannot be moved out; but when you tax those things that can be moved you do the same thing as they do in the township where they want to get rid of the dogs that destroy the sheep, and they put a tax on the dogs and reduce the number. Then again, it seems to me that income tax is even a more unjust tax, if it were possible, than the tax on personal property. The only difference is that at present the exempting of the first $700 certainly comes under the category of taxing a man according to his ability to pay. Frequently the taxation on personal property, while it is assumed to be taxed according to a man's ability to pay, it is not so. Of course if a man has the ability he then has something surely to pay his tax with, but there are so many different sources of income that to put them all in the same category is manifestly absurd, even granting for argument's sake that a tax on income were at all permissible. Here is a man who is drawing income from no effort of his own; he owns a lot in the heart of a town and is getting a good income but never has done a tap to improve that lot or to add to the value of anything in that town. Here is another person who after spending years on his own education, supporting himself meanwhile, goes into business as a lawyer or a doctor and gets a large income for a certain ability, but that income is entirely the result of his own exertions, and to tax that is simply to fine a man for putting his talents to a beneficial use, because we are bound to assume that a doctor or a lawyer is a benefit to the community. There is another thing in regard to the taxation of income; every man who spends a dollar in the community where there are indirect taxes is paying a large amount of taxes. If a person has only himself to support, then if you tax incomes all alike he gets off with a very light tax, whereas a man with the same sized income having to support a number of people, wife and children, etc., is not only taxed on his income, but he is taxed on every dollar that he expends, in addition to having paid for the right of living in the municipality either in the shape of an annual payment of rent or a cash payment in advance, which purchase of land really means—it is capitalizing in rent, that is what is represented by the price of land. There is just one other thing I would like to refer to. Last week I made some remarks on departmental stores and gave some figures. In my absence I believe Mr. MacLaren attacked those figures. He was labouring under a misapprehension. My figures referred to the corner of Queen and Yonge Streets only, that portion of the Simpson building fronting on Yonge St. having a frontage of 118 feet, while the part he referred to was the whole building. For the purpose of my comparison I left out the corner of Richmond St, which was an unfinished building. Had I taken that I would have added materially to the strikingness of my illustration, but my figures were confined only to the corner and were substantially correct, having been taken from the assessment for the present year.

Mr. S. H. Blake, Q. C.: I will just say before I state what I have to do in respect to those for whom I appear, that our good friends who think the collection of taxes

should be entirely upon land must be highly gratified at the statistics that our friend has given with so much care to the Commission, for it shows already that there is very little ground of complaint, because as I read the statistics he told you 95 per cent. of the taxes are already levied on the land.

Mr. THOMPSON: Land and improvements.

Mr. BLAKE: Upon land as land, and that 90 to 95 per cent. are drawn from that which they stated to day, and I agree it is a most difficult question, but it would a very sorry day indeed to the community when difficult questions ceased to be solved, for lawyers and clergyman would have nothing to do. (Laughter) This is not the only case in which there are difficult questions, and they arise just as strongly in a vast number of other matters as in regard to the question of taxation, but still they are met and solved. I represent the loan companies, and am perfectly satisfied with the statement that has been made by my learned friend, Mr. MacKelcan, as to what he thinks would be reasonable to be done in respect to them. That is, as I understand it, to continue as they already are being assessed, with one difference that exists, I understand, between my learned friend Mr. MacKelcan and my learned friend Mr. Fullerton, and it will be for the Commission to say which would be reasonable. At present there is an assessment as against the loan companies on the income derived on all their investments. I merely refer to one class of investments, though you could scarcely call it an investment, but to one class of income, lest there should be any misapprehension in regard to it, and say that it might equally be thought necessary to be set at rest. In that my conclusion does not differ from that of my learned friend, Mr. MacKelcan, and my learned friend, Mr. Fullerton. It is in respect to the measurement of the amounts that may be at a particular date in the bank. A loan company may be laying aside money for the purpose of discharging debentures or for the purpose of investing in mortgage, and on the date, February or March, the assessor may state, "You have on deposit in a particular bank $100,000" That hundred thousand dollars may be the very next day paid out to discharge the debenture debt or it may be within a week or ten days invested in mortgage. We do not at all desire that that money shall not be assessed, but I simply emphasize that point, in respect of which there is a concurrence of opinion, that it should be assessed upon the income derived. There may not be that sum of money for a whole year in the bank; it may be there only for a week The fair thing is to find out what through the whole year is the income derived,—thus you get at it fairly, there can be no mistake about it,—and to let the charge of assessment be upon that.

The CHAIRMAN: That is the income if any derived in the course of the year, the average income in the course of the year on money in hand?

Mr. BLAKE: Or the whole of that. Whatever it is that it earns, upon that income this is earned, an assessment.

The CHAIRMAN: You are speaking of money on hand?

Mr. BLAKE: I am speaking of money which you may call in hand. It is deposited in the bank of course to answer these particular purposes. On the day that the assessor comes there may be an accumulation. The next day, or already, there may be a draft on England, and those funds to answer that, for the discharge of the debentures, or else it may be within a week in the shape of mortgages and earning the very money on which again we are to be taxed for our income.

Mr. JUSTICE MACMAHON: The money may be there to pay an existing indebtedness of the debenture holder?

Mr. BLAKE: Yes

Mr. JUSTICE MACMAHON: Or it may go out to a mortgagor during the next week?

Mr. BLAKE: During the next week, when of course it will begin to earn.

Mr. JUSTICE MACMAHON: It will begin to have an increment from an outside source?

Mr. BLAKE: Yes, from an outside source.

Mr. JUSTICE MACMAHON: On which you are willing to pay?

Mr. BLAKE: On which we are willing to pay and should pay, and I do not understand there is any difference of opinion in respect of that.

Mr. MACKELCAN: No; although the amounts at the credit of loan companies in the banks are liable to assessment, in practice we never have assessed them and we don't desire to assess them, but we desire to get some income assessment.

Mr. BLAKE: Oh, certainly.

The CHAIRMAN: The point I understand to be something like this: There is no question about money already invested in mortgage?

Mr. BLAKE: None whatever.

The CHAIRMAN: As to that the law says that they shall pay on their income?

Mr. BLAKE: Certainly.

The CHAIRMAN: But it happens sometimes that they have a large uninvested sum in the bank?

Mr. BLAKE: Yes.

The CHAIRMAN: It may be awaiting investment, it has just come in on investments which have been called in and which are paid off.

Mr. BLAKE: Yes.

The CHAIRMAN: Or it may be money which has never been invested and is awaiting investment, or it may be money which they are gathering up for the purpose of meeting maturing debentures? You say with regard to that that it ought not to be assessed as so much money belonging to them or personal property, but the income from that source should be assessed?

Mr. BLAKE: Exactly.

The CHAIRMAN: Instead of the capital?

Mr. BLAKE: Exactly, and I put it for the reason that it may be known that a large sum of money has come in. On that day the assessor visits; the next day the money is out.

Mr. JUSTICE MACMAHON: It is always available for investment?

Mr. BLAKE: Always available for investment, and the moment that it is invested it will become earning money, or even while it is in the bank if they give us 3 per cent. I am perfectly willing that the assessment should be on that. There will be no difficulty in ascertaining.

The CHAIRMAN: One company might have a large sum the day the assessor went around?

Mr. BLAKE: That is it.

The CHAIRMAN: The other company might have none, but on the following day might have had more?

Mr. BLAKE: Might have had more.

The CHAIRMAN: So that the system is one of possible inequality?

Mr. BLAKE: I do not admit that it is an existing system, because there is no case in which that ever has been exacted from any loan company up till to-day, but my learned friend, Mr. MacKelcan, says that according to his opinion—which is no doubt of value in this matter—that that is a charge which can be made.

The CHAIRMAN: You are answering Mr. MacKelcan's argument?

Mr. BLAKE: Quite so, and as one of the objects of the Commission shall be to have the law written so plain that there can be no misunderstanding about it, I should ask that to be put in the way which we all admit to be fair and to be just—that on the actual income, all, whether out on mortgage or whether in a bank, whatever is earned should be added to the income, and upon that there should be an assessment.

The CHAIRMAN: Do you suggest that the taxes paid upon money like that might be more than the income derived on it during the year?

Mr. BLAKE: Certainly.

The CHAIRMAN: Might be two mills, whereas little or nothing might have been earned?

Mr. BLAKE: Might have been earned from it, and then of course the other difficulty is that not only little might be earned from it, but that that money goes out the next day or week and it immediately becomes an income-earning asset in the hands of the loan company, and that has been taxed again, so that your hundred thousand again——

The CHAIRMAN: Not till next year, however?

Mr. BLAKE: I don't know that it would not be, because the assessor might not complete his book for some time.

The CHAIRMAN: Might assess your money in the bank, and come around and assess the same money in a mortgage?

Mr. BLAKE: Because he will ask what the income is, and suppose we say the income is $10,000, which $10,000 is based on what the $100,000 has earned, what the $100,000

may earn for the year, whenever the fiscal year may end, if not the whole a portion of the income of that year will already be returned as the income of the company, and it will be assessed, and you are already assessing $100,000 of that very money which has gone to reduce that income or a portion of that income.

Mr. JUSTICE MACMAHON: Mr. MacKelcan, as representing the Ontario Municipal Association, concurs in the view that you have expressed as to the equity and as to the advisability of putting the law beyond question?

Mr. BLAKE: Of having that so defined.

Mr. WILKIE: Not only as regards loan companies, I understand, but as regards individuals as well?

Mr. BLAKE: That may be; I have not gone into that.

Mr. WILKIE: Mr MacKelcan, as I understand you, Mr. Blake's argument would apply to the individual as well as the loan company with regard to money in the bank?

Mr. MACKELCAN: Oh yes, we never do in practice assess the money at the credit of an individual in a bank; that might as well be left out of the statute.

Mr. JUSTICE MACMAHON: If that is the case and if that is the practice it ought to be settled in the statute by striking it out.

Mr. FULLERTON: Or give us the means of getting at it.

Mr. JUSTICE MACMAHON: Give you the means of getting at what?

Mr. FULLERTON: At what is there.

Mr. JUSTICE MACMAHON: At the interest or income arising from the investment?

Mr. BLAKE: Quite so.

Mr. WILKIE: No, Mr. Fullerton says getting at the principal.

Mr. FULLERTON: Either make it clear that it is not to be taxed, or don't put the assessor in the position that he ought to find out that it is there and tax it, and is not able to do it.

Mr. MACPHERSON: The shorter way to do is to strike it out altogether.

Mr. JUSTICE MACMAHON: And make provision beyond question for the taxation of the income derivable from it?

Mr. BLAKE: Certainly; that is, all the income, and that is embraced in it.

Mr. HUTTON: Under the Act the companies that Mr. Blake is speaking about are only now liable to pay on so much of their income as is derived at their head office. Mr. Blake proposes to pay on the whole income, and I would ask him where?

Mr. BLAKE: I am coming to deal with that in a moment. But I say now first, getting at that which these persons are seeking would work a very great unfairness to those whom I represent, and I desire to say that these people desire to meet a fair assessment so far as the Province is concerned, and so far as the municipality is concerned. I need not go into the burdens that are borne and how they are borne. It seems to me that the wealthy man has quite a large enough burden in bearing the burden of his riches, for they seem to me to be the most broken-backed people that we have in the city, and I always pity them. That is tax enough, to my mind, but that is a question for the Single Tax to take up, and they will deal with it no doubt before the Commission is over.

Mr. JUSTICE MACMAHON: They would get lots of people to relieve them of their burdens.

Mr. BLAKE: What has been stated is the only other point that I desire a word upon, and that is where this assessment should be made. Should it be at the head office or should it be in each municipality? We, as I say, are quite ready, and I don't know indeed how it could otherwise be done than to pay upon the income no matter where that income may be derived, no matter where the investment may be, but of course not to pay more than once upon it. We take the place A where the head office is, and all the returns are made there, the accounts are all there, and with a full return and full account and full rendering of the income of the year the assessment is laid upon it. I understand that my learned friend, Mr. MacKelcan, says that instead of that taking place at A, if you have a certain income at B, or C, or at other places, that the assessment should be had there.

Mr. MACKELCAN: Yes, although we have really no objection if they are all assessed at the head office as it was before this change in the law.

Mr. BLAKE: I do not understand the difficulty that exists. At all events what I have to say upon that is just this: that in a matter of this kind I think that the Com-

mission should as far as possible assent to what would be the easiest mode of carrying out this matter for the companies. It is certainly more convenient to have the taxation at the head office. All the returns are made there. Everything that forms an asset or is income-producing, as well as every other item in the account, must find its way there.

The CHAIRMAN: The companies you represent as a rule have no offices elsewhere?

Mr. BLAKE: They have no offices elsewhere. They may have some person that is an agent, and we might be able to—

The CHAIRMAN: His functions are very limited.

Mr. BLAKE: Are very limited, and the probabilities are that in many cases they would scarcely be able to even give a suggestion of the investments that were made, for they are made and sent out and there his duty ends.

The CHAIRMAN: There might be more than one valuator in the same municipality.

Mr. BLAKE: There may be more than one, and therefore it would make that very, very complicated indeed, and of course, as was so well put here by Mr. Kemp and Mr. Brock and Mr. Caldecott and Mr. Fudger, it must be to the interest of this Province to encourage and not to discourage the formation of these large companies to do the business throughout the land.

Mr. JUSTICE MACMAHON: All the interest, as far as the loan company is concerned, is payable at the head office?

Mr. BLAKE: Yes, and therefore it would be almost impossible.

Mr. JUSTICE MACMAHON: it would be impossible to assess the income in the townships, for instance, where the mortgages are placed.

Mr. BLAKE: They would have of course, as Judge MacMahon says, to refer to the head office to know how the mortgage stands before they could do it, and so you will put an immense difficulty in the way of the company, and you could not have it as accurate, and an immense multiplication of tax bills, and of course what this Commission must remember is the continued—I will not say persecution, I will say in its place following up—of large companies in thirty or forty or possibly one hundred or one hundred and fifty municipalities. The more you increase that the greater is the difficulty in the way of that company carrying on its business, and in vexation it goes elsewhere where a more reasonable method of assessment and of collection of taxes exists.

The CHAIRMAN: It would mean a tax contribution to every municipality in which they had a security?

Mr. BLAKE: Undoubtedly.

The CHAIRMAN; It might be hundreds.

Mr. BLAKE: It might be hundreds, because it is not the counties or even the towns, but the townships, etc. That is one of the great objects, I presume, of this Commission, to make it as easy as possible for the company to meet.

The CHAIRMAN: If it is to go to the localities too it ought to be taxed at the rate called for by the locality?

Mr. BLAKE: Quite so.

The CHAIRMAN: And you would have to give each municipality the power to tax mortgages registered within their limits?

Mr. BLAKE: Yes, and then, as Judge MacMahon has stated, what would that be? It would be upon the income upon it.

Mr. JUSTICE MACMAHON: Changing every year you could not get anything from the Registry Office except the face of the mortgage.

Mr. BLAKE: That is all, and you would have to get a return from the head office in order to ascertain how that mortgage stands, etc.

The CHAIRMAN: Whether it was a sufficient security, etc., whether they would ever get any income from it?

Mr. MACKELCAN: I think it would be far more convenient that the old method of taxation should remain, but it is precluded by this Act which cuts off that portion of the income from the head office but does not say it shall be exempt, leaving it to be taxed somewhere else. I quite agree with Mr. Blake that it would be more convenient to have it all taxed at the head office. So far as the municipality of Hamilton is concerned, we have two or three loan companies there from whom we got a fair assessment on their securities extending over the Province, but now their assessment is confined to the securities taken within the City of Hamilton, and the most of their money is loaned outside.

Mr. JUSTICE MACMAHON: And might escape taxation altogether?

Mr. FULLERTON: It does.

Mr. MACKELCAN: In order to make up that difference we try to tax moneys loaned in the municipality by other companies.

Mr. BLAKE: There is no doubt if you do that it is a loss to the company, because at the head office you get a far higher rate of taxation than you do in the municipalities where it really amounts to comparatively nothing, and there is no doubt that in those municipalities a vast amount of the mortgages are invested. I don't know whether the Commission would go so far as to suggest that there should be some rate struck in that way, or whether there should be some return to the other municipalities if one wants to work it out absolutely fairly, but we think there is the convenience of being able to make a return at the head office of every security and where that security comes from. In the City of Toronto of course the taxation would be perhaps twice, three or four times what it would be elsewhere so far as the vast portion of that income is concerned. That is a matter which is present to the Commission to be considered, but we did not feel what has been stated, that it should be put in the fairest way that it can be done, to make it as easy to the large corporation as that can be done, also to make it as certain and as plain as that is possible, and to have it so that it would be uniform throughout all the places where there may be the taxation, and to put it in such a way that so far as possible it would preclude this inquisitorial investigation into the affairs so as in some instances to work a great injury by making public that which really is not the property of the public and cannot do any good but may do a vast injury to the corporation or the company or the individual in respect of whom the inquisitorial search is made. There is a great deal to be said in favour of having the taxation fall in such a way that it is apparent to everyone's eye as to whether or not what is reasonably fair is being done, and then to have it in the incidents of taxation falling in such a way that there need be no further private legislation and no exemptions further than those that have been referred to, and no bonuses or competing in favour of any company starting business by giving them some rights in respect of taxation; that it would be known, and that he that runs may read so that the immense waste of time that at present exists with regard to the question of the assessment and the appeals and all that may be so far as possible done away with.

Adjourned at 1.15 p.m. till 1.45 p.m.

Mr. FULLERTON: What I had intended to say has been very much covered by the remarks of Messrs. MacKelcan and Blake. The points that have been made by Mr. MacKelcan, and that do not seem to have been contraverted, are points that I desired to bring before you, and the only place where we were differing was as to the assessment of companies under the Revenue Act. My contention would be what has been so well illustrated by Mr. Blake, that the proper place to assess companies—I am referring now to companies under Sections 7, 8 and 9 of the Revenue Act, 62 Vict. Cap. 8—is at the head office. In fact as the law stands to-day it is the only place they can be assessed, and the result of the Statute has been, in my view, to free companies from taxation except in so far as they have investments in the municipality where their head office is.

The CHAIRMAN: How did that Act come to be passed, those parts of it at all events? It was for the purpose of obtaining provincial revenue, I suppose?

Mr. FULLERTON: I am unable to answer that question.

The CHAIRMAN: These clauses strike one as very peculiar.

Mr. FULLERTON: I am unable to answer that question, and for this reason, the Act was a Government Act and did not come before the Committee, and therefore there was no opportunity given to discuss it before the Committee, and therefore I did not hear the argument of those that were promoting the bill. If it had been a municipal Act or a Private Bills Act it would have come before the Committees and been discussed, but being a public bill it was not discussed. However, we have this great advantage now Mr. Blake, representing some of the Companies, says that so far as the Act is concerned they admit they ought to be taxed on their income on which they are not now taxed on a por-

tion. The result of course would be that the change must be made in the law, because the outside municipalities—I am speaking now of Toronto as the inside one—Hamilton, for instance, has asked the Canada Life to pay theirs, and other municipalities follow suit. The result will be an inquisition into all the departments of these companies wherever they happen to do business. Now let me put this case. Take some wealthy man in Toronto, using Mr. Gooderham for illustration; he has $100,000 to loan. He loans part in Toronto, part in the County of Simcoe; he collects these mortgages here, he takes all that income in the City of Toronto, the place where he resides, the place where the protection is, and the place where his office is and the business is transacted. Why should the Freehold Loan Company be in a different position in regard to the money it loans out in the County of Simcoe or elsewhere outside of Toronto? The law should be the same for both, and this change it seems to me must have been made in the law without considering the effect it was going to have. As to what the law is, I happen to have in my hand the opinion of counsel whose name I do not intend to mention, but he is probably second to none in this Province, and I had almost said elsewhere, and whose name I do not mind giving to the Commission—I mentioned it to two members, so that you could have the advantage of knowing that—who puts it in this way: "Secondly, with regard to private income outside of premiums, while I think it is clearly assessable, it is proper under a decision of Kingston vs. The Canada Life, (a) to assess such income only at the head office of the Company, and that such income cannot therefore be assessed at or by the outside municipalities." Then follow the reasons given by Mr. Blake for convenience, and I submit that justice and convenience both concur in saying that that assessment should be at the head office. Take for instance a man in the County of Simcoe who borrows $10,000. He either goes or sends his application to Toronto. The money is transmitted to him by post or he comes and gets it. He is assessed on his farm just the same as before, and why should that municipality obtain an income for that sum there when the office is not there? The income is not received there, there is no change in their assessment there; and there has nothing taken place in the County of Simcoe which gives them a right to anything on that money; if income is to be the basis of assessment, then I submit it should be at the head office. The provincial tax was mentioned this morning in the same manner in which it was mentioned on two former occasions, and there has been nothing said concerning that tax from any other point of view. It seems to me a provincial tax is very much in the position of the tax which was proposed by the merchants as a business tax. If companies are only taxed on their income, not on the amount of personalty—and that is the result practically at the present day, Mr. MacKelcan tells me, in Hamilton, and the Assessment Department tells me that is the result here—and if they are only assessed on the income tax by the municipality, then the tax imposed by the local Legislature is very much in the same position as a business tax and perhaps might be justified by the Legislature in another way. They owe their existence, all of them that are so placed, to incorporation under the laws of the Province. It is practically a franchise tax, though perhaps not quite in all cases coming under that definition. It does not alter the relation of those companies in any sense to the municipality. It does not alter the wealth that they have in the municipality. It does not alter the protection they receive from the municipality, and there is no reason why a municipality, bearing as it does in this country a very large share of the burdens, or paying a large share of the burdens of taxation, paying certain taxes that in other places are Governmental, there does not appear to me to be any good reason why the tax, so far as the municipality is concerned, should be altered or changed. Then I want to say just a word here in regard to the income tax, in regard to the merchants and wholesale houses and retail houses. The question was so fully discussed before that I only want to point out that if you adopt the business tax, which was advocated by a large number, you should adopt it with the income tax that was not objected to by any, and advocated by the prominent men representing the wholesalers and retailers—I refer to Mr. Paul Campbell, not himself in active business now, and Mr. Hugh Blain, and I find on inquiry from the Assessment Department here that the result of that would be to give us perhaps an equal amount with the amount we are now receiving.

(a) 19 Ont. 453.

The CHAIRMAN: An income tax and a business tax?

Mr. FULLERTON: The business tax with an income tax.

The CHAIRMAN: Would relieve all personalty?

Mr. FULLERTON: No, would give us about the same amount that we receive from personal tax on merchants themselves as now administered—not the whole personalty of the city, but the personalty of those wholesale and retail houses.

Mr. WILKIE: Did you extend your calculation beyond those?

Mr. FULLERTON: No, because if we did we would have to extend the business tax to classes of people that do not transact business.

Mr. WILKIE: I meant this—did you include retailers in that calculation?

Mr. FULLERTON: Yes, that includes the wholesalers and the retailers.

Mr. WILKIE: Retailers without any exemptions, as was proposed?

Mr. FULLERTON: No exemptions were taken into that. If any exemption is allowed at a certain sum it might lessen the amount, it might make the amount that we would receive under the business and income less.

Mr. FORMAN: Or increase the rate.

Mr. WILKIE: Did you take localities or individuals?

Mr. FORMAN: Took both localities and individuals. There are thirty million dollars assessable to-day on wholesalers' and retailers' real property on which we base the business tax.

The CHAIRMAN: This is your proposition, as I understand, you represent that business tax and and income tax together would produce as much revenue as the present tax on merchants' stocks?

Mr. FULLERTON: Yes, that is the proposition.

Mr. MACKELCAN: That is the present tax with the present exemption of debt?

The CHAIRMAN: If you substitute the business tax and the income tax on mercantile people, that would produce as much revenue as the present tax on stocks.

Mr. FULLERTON: That is the result of the computation I have made.

Mr. WILKIE: You mean by business tax, landlord tax—the business tax based on rental.

Mr. FULLERTON: Yes. It seems to me that the only right basis to put that on is a rental tax.

Mr. JUSTICE MACMAHON: And that is what they admitted would be fair what they are willing to submit to.

Mr. FULLERTON: And I think the rentals should be based on the assessment that is made and not on the actual rental that is paid. They may change the rentals, as it is alleged has been done, for the purpose of getting out of the result, but if the assessment is taken, that goes before the judge.

The CHAIRMAN: The freehold land and the improvements on them, at least the land itself, is not assessed at its full saleable value in Toronto, is it?

Mr. FULLERTON: Well, practically I think it is; practically it is assessed at just about its full saleable value.

The CHAIRMAN: Then the tax ought to be on the same scale, at all events?

Mr. FULLERTON: Yes. It is likely that most buildings would bring a trifle more than they are assessed at, but I understand practically the intention of the Assessment Department is to get at a value that will reasonably represent the price.

The CHAIRMAN: A store as land is assessed at a certain sum.

Mr. FULLERTON: Yes.

The CHAIRMAN: That would be the basis of the business or rental tax?

Mr. FULLERTON: Yes. I feel safe in making that estimation for this reason: I have had on several occasions to sustain assessments, and we always felt that where we succeeded in getting valuators who would put the selling value as high as the assessment that there we were entitled to a judgment in our favour, and I think the judge has taken that view of it. There are some other question that I propose, I mean as to the mode of collecting taxes, and whether some more stringent measures should be adopted with regard to that.

The CHAIRMAN: Can you tell me now with regard to the city of Toronto if you made that change, substituted the rental tax and the income tax for the tax on stocks, what the remainder of the personal assessment of Toronto would be, what per cent.?

Mr. FULLERTON: I am unable to tell you at present, but I will have that worked out for you and will let you have it to-morrow morning. Then that raises a question that has not been discussed before, and one that I have not considered. Only merchants have been discussed, not manufacturers, not brewers and other classes of people of that kind. It would make a very great difference if some changes of that character were made in regard to them, but I do not suppose you are in a position to consider that.

The CHAIRMAN: There was nothing said about that. I suppose the manufacturers and brewers, inasmuch as they have not appeared before us at all, are satisfied with the present mode of asseesing them.

Mr. FULLERTON: We understand that to be so, and therefore have not addressed ourselves to that portion.

The CHAIRMAN: And representing the municipality you also are content with the present mode of assessing them.

Mr. FULLERTON: Quite so. As to the levying of taxes and the enforcing of them and the means of reaching them, I will defer discussion on those points until the question comes up later.

Mr. HUTTON: Mr. Chairman and gentlemen, I very largely agree with what Mr. Fullerton, Mr. MacKelcan and Mr. Blake have said in regard to the assessment of companies. I quite appreciate the difficulty as laid down by Mr. Blake in assessing each of these companies in the particular localities in which they may happen to have investments, and do not think it will be at all unfair to assess them at the head office. I do not think it would make any appreciable difference in the amount collected by the municipalities to do it that way rather than to split it up the other way. I think the returns would be about the same. Then again there is the assessment of fire companies.

The CHAIRMAN: What would you say, then?

Mr. HUTTON: I think the assessment of the loan companies and the trust companies and such companies may be made at the head office for their net income.

The CHAIRMAN: And for the benefit of the municipality in which the head office is altogether?

Mr. HUTTON: And for the benefit of the municipality in which the head office is altogether.

The CHAIRMAN: What do you say about this change in the law which exempts them from taxing anything of their investments outside of their municipality?

Mr. HUTTON: I don't think that was right. While I think the Government did perhaps right in taking the premiums, as they covered over the whole Province, yet in taking away the investments, which appears to be the opinion of Mr. Fullerton, but in which Mr. MacKelcan and myself do not agree—

Mr. JUSTICE MACMAHON: You say they ought to pay one assessment on that anyway?

Mr. HUTTON: One assessment anyway on their investment wherever they are.

Mr. WILKIE: Perhaps the Government intended to take to itself the taxing of their income?

Mr. HUTTON: On their investments?

Mr. WILKIE: Well, in charging on the premium of course they charge on the income, because the income comes from the premiums.

Mr. HUTTON: Not altogether; it comes from investments.

Mr. WILKIE: It originally comes from the premiums.

Mr. HUTTON: Certainly; what comes in this year goes out next year, but to the head office in the municipality investment is the basis of taxation.

Mr. FULLERTON: They have wiped out the taxation on premiums now altogether, and possibly they wiped out those premiums on account of the tax they levied themselves, but they did not wipe out the tax on investments. They left that.

Mr. HUTTON: You can see from the opinion that Mr. Fullerton read you that the opinion of that learned counsel is that it is assessable, but the way the law works out he thinks that they can get out of it. That is in effect what he says, and I think myself, though the Government intended to leave to the municipalities the investments, they did not say so, and only as per the Act the investments are taxed at the head office of the Company. So what I say is, if one municipality is entitled to it, the other should be; if not, it should be wiped out so as to make the matter clear. It seems to me still a

greater injustice is done in regard to the assessment of fire companies, which has been entirely wiped out. Where we used to get in Hamilton an assessment from $75,000 to $80,000 of income from fire companies, we now of course do not get one cent, and the law in that respect, I contend, ought to be restored so that we could assess as income the net profits.

The CHAIRMAN: Has not the Government assessed them?

Mr. HUTTON: Well, probably they have, so far as the premiums are concerned. Of course they are on a different basis to the others; they have no investments practically; they are assessed on the premiums.

The CHAIRMAN: That is what you used to assess, was it not?

Mr. HUTTON: Yes; that is quite so. I contend that for the privilege of doing business in the various municipalities, the municipalities should be empowered to license them or bring them under the provisions of the business tax.

The CHAIRMAN: Do they pay the Province now as much as they used to pay them?

Mr. HUTTON: That I am unable to say. I have looked for returns on that head, but have been unable to find them. I believe none have been published yet. We are all anxious to find that out.

The CHAIRMAN: Does not the Act fix the rate?

Mr. HUTTON: It fixes the rate per cent., but we are unable to say whether that amounts to as much as they paid to the municipalities before or not.

Mr. JUSTICE MACMAHON: What are the companies that pay license to the Province?

Mr. HUTTON: All companies that do business in the Province.

Mr. JUSTICE MACMAHON: There is this provincial license, and then the provincial Government put a tax on premiums to pay the license?

Mr. HUTTON: Yes, that is so. The fire insurance companies, more especially, are benefited to a larger extent than any other company or ratepayer even from certain classes of municipal expenditure, and in some measure should make return for that.

Mr. JUSTICE MACMAHON: You cannot have two returns; the man who has his property there pays the taxes for the property that gets the protection. What protection have the companies?

Mr. HUTTON: The increased profits.

Mr. WILKIE: That is met by competition, lower rates.

Mr. HUTTON: I don't know that there is very much competition in it. They have a pull, and you cannot get very much competition in insurance rates

The CHAIRMAN: If you tax the premiums again would not that raise the premiums?

Mr. HUTTON: No, I hardly think so, because—

The CHAIRMAN: It would have a tendency that way.

Mr. HUTTON: I suppose it would if it was to a very great amount, sufficient to affect the rate on the dollar.

The CHAIRMAN: The effect of that would be to make the property owner pay the tax.

Mr. HUTTON: It might, if the tax was to that extent.

Mr. MACKELCAN: The profits they made in Hamilton go to pay the losses in Montreal. We say they should pay taxes there the same as any other body that makes profits there out of the business in the town.

Mr. HUTTON: Another question we have had considerable trouble about in Hamilton is the assessment of the companies that have no domicile. We had some four or five companies that were assessed. The assessment of three companies were confirmed by the Judge, and the fourth company raised the question of domicile. They were companies formed under the Act, but in whose Act no domicile was mentioned, and as a matter of fact they had no fixed place. They might have been in Hamilton one year and in Guelph another year and somewhere else another year, and who loaned a large amount of money. The largest case we had was The Synod of Niagara. They have had on investment between $200,000 and $300,000. The assessment was struck off by our County Judge on the ground of domicile, although their Secretary-Treasurer was resident in Hamilton, the See Church was in Hamilton, the Bishop was in Hamilton, and they as a matter of fact had never met anywhere else but in Hamilton, although, as they pointed out, they might. The Act did not fix their domicile and therefore they escaped; and in the next year the other three or four companies that we had assessed came up the same way

and of course were struck off. This might happen not only in the case of companies, but of individuals. Take the instance that was given this morning about the gentleman who travelled for a Scotch house. Now the section of the Act provides that a man shall pay his income tax where he earns it, and the question is, does he earn that income in Scotland, or does he earn it all over Canada, or in Ontario, if he travels only in Ontario?—and he could escape taxation by not having the domicile. We had a case in Hamilton of a gentleman whose family had all resided in Hamilton and who was boarding in Hamilton. He raised the question of domicile, and although all his interests and everything were in Hamilton he managed to convince the Judge that his domicile was somewhere else the biggest part of the time, and he escaped taxation. Section 43 is the one in question. I know several cases in Hamilton where gentlemen who travel for London and Toronto houses and the like of that say, "We earn our income in Toronto." Well, they don't earn it in Toronto any more than they do in Hamilton; they travel all over the Province, and sometimes by just simply making that statement they get off. We have never yet exacted a certificate; they say "We travel for a Toronto house," and the Court at once takes that as conclusive evidence and strikes it off. The Revenue Act fixes that in regard to the companies. If their head office is by charter in Montreal they are bound under the Revenue Act to elect a head office in Ontario. The matter also referred to by Mr. MacKelcan in reference to the assessment of the dividends of banks and other companies held liable—

The CHAIRMAN: In what way was it attempted to tax the Synod?

Mr. HUTTON: On the income from the business, income from mortgages.

The CHAIRMAN: Under what clause is that?

Mr. HUTTON: Section 35. It was taxed under the clause which provides that the interest of mortgages is assessable.

Mr. JUSTICE MACMAHON: How did the question of the domicile arise there? It is the Diocese of Niagara?

Mr. HUTTON: It is the Synod of the Diocese of Niagara.

Mr JUSTICE MACMAHON: And the See is in Hamilton?

Mr. HUTTON: Yes.

Mr. JUSTICE MACMAHON: Then the Secretary-Treasurer is there?

Mr. HUTTON: Yes.

Mr, MACMAHON: And the Bishop?

Mr. HUTTON: Yes, and the Chancellor. The office is there, and all securities, and the interest is paid there.

THE CHAIRMAN: Can you call the Synod properly a company?

Mr. HUTTON: It is a corporation.

The CHAIRMAN: What the Act says is, the personal property of an incorporated company.

Mr. FULLERTON: I think the definition is perhaps wider.

Mr. HUTTON: The law provides all personal property shall be taxed. It don't exempt specially.

The CHAIRMAN: Which is the section that lays the tax on personal property?

Mr. MACKELCAN: Section 35. The interpretation is that that refers to corporations.

Mr. JUSTICE MACMAHON: Does that mean any eleemosynary institution?

Mr. FULLERTON: That would be helped by section 7, sub sections 18 and 27.

The CHAIRMAN: Section 7 itself seems to be the one.

Mr. HUTTON: And sub-section 10 of section 1 mentions "interest on mortgages." That was the clause under which we taxed them, the interest derived from their income and the Royal Templars of Temperance and the Masonic Order and one or two other corporations in the same way who had no fixed domicile.

Mr. MACKELCAN: The Grand Lodge of Masons escaped taxation, although their head office was in Hamilton. They said practically they had no legal domicile anywhere, so they escaped taxation.

The CHAIRMAN: They either were assessed nowhere or they were assessable everywhere. One municipality has as much right to assess them as another if they had no domicile.

Mr. MacKelcan: I think domicile is a matter of fact to be found upon the evidence. It seems upon the evidence that the domicile should have been where the head office business was transacted.

Mr. MacMahon: Isn't it where the head office is?

Mr. MacKelcan: Yes, it was a matter of fact, although it was not fixed by statute.

Mr. Hutton: But they say they had no head office. They had a place where the secretary carried on business.

Mr. Justice MacMahon: Where they carry on the business isn't that the head office?

Mr. Hutton: We thought so but we were not able to convince the Judge so.

Mr. Fullerton: I think our Judge would have got over the difficulty.

Mr. Justice MacMahon: Yes, I don't think there was any great difficulty in it. They must have a place where they carry on the business. The place where they carry on the business is the head office; and if they carry on the business in Hamilton the head office is there.

Mr. Hutton: I would suggest to the Assessment Department here that they try it with the Synod of Toronto and see how they come out.

Mr. Justice MacMahon: They are not so rapacious as you are.

Mr. Hutton: Yes, they watch us with a great deal of interest to see how we come out.

The Chairman: The Synod of Toronto has an actual office here.

Mr. Hutton: So they have in Hamilton.

Mr. Justice MacMahon: They have an office there, but they say they have no domicile.

Mr. Hutton: Then it is not fixed and they have no domicile. One of the papers remarked that heaven was their home.

Mr. Wilkie: I suppose the same custom prevails regarding the Presbyterian Church.

Mr. Hutton: It would apply to all of course. I don't mean to be charged with picking out any particular one; I just pick out of course what I am conversant with. What I mentioned the other day in reference to the assessment of income as derived from banks and bank shares and other shares of that nature, the amount of the difference between the amount distributed and the amount earned is not taxed now as income. I think it would be much more preferable to tax a bank or insurance company or any other company as taxable for the whole amount of their earnings just as you would tax any other company's profits, a loan company's for instance.

Mr. Wilkie: Is it the same as is done in the loan companies?

Mr. Hutton: The same as Mr. Blake proposes to do in loan companies, assess the banks for all their income at their head office and let the bank charge their shareholders if they think fit with the taxes.

Mr. Wilkie. That is not Mr. MacKelcan's suggestion. He wanted to assess them on their incomes, not on their losses as well.

Mr. Hutton: Well, I would quite agree with Mr. MacKelcan in that respect.

Mr. MacPherson: What you mean is that they should be assessed on their total earnings, and then when the dividends are paid, on each dividend there should be a tax?

Mr. Wilkie: That would throw the whole income into the locality where the head office is situated.

Mr. Hutton: Yes, but I think it works itself out. In Hamilton we have a head office of only one bank, that is the bank of Hamilton, but I think the amount that would be payable by that bank in Hamilton would be as much as we get now from the shareholders of all the banks, that is, the Bank of Hamilton, Imperial Bank, Dominion Bank and all other shares.

Mr. Wilkie: There are only three cities in Ontario that would reap that benefit; all other municipalities would suffer.

Mr. Hutton: I don't think they suffer very much, for this reason, that each individual shareholder is allowed a $400 exemption, and if you take that off you will find that the shareholders that are resident other than in those cities who get more than $400 itself, are very small.

Mr. Wilkie: And you say that this suggestion of yours would also cover income that is not divided?

Mr. HUTTON: Certainly, cover all that is earned.

Mr. MACKELCAN: The difficulty of Mr. Hutton's suggestion is that banks whose head office is either in Montreal, for instance, or in Great Britain, like the bank of British North America, will escape taxation on their profits altogether, notwithstanding they made large profits in Ontario, unless they have branches.

Mr. WILKIE: And the banks having head offices up here would be at a disadvantage as compared with those institutions, as they are paying a larger amount of taxation than their rivals.

Mr. HUTTON: I don't know; their shareholders pay it now.

Mr. FULLERTON: Don't you think those are taxed in England?

Mr. WILKIE: Certainly they are.

Mr. HUTTON: And we hear that the Bank of British North America exact a tax again, which is double. The late Mr. Tuckett in Hamilton, who had a very large holding in the Bank of British North America, paid in England, and then we taxed him here.

Mr. MACPHERSON: That was an Imperial tax?

Mr. HUTTON: Yes. In the argument this morning with reference to those sections as to personal property which is owned out of the Province the committee did not think that it applied to the income. Now, we had a case some years ago when the late Judge Sinclair was alive where he held that the income derived from American consols by residents of Hamilton was not assessable because it was owned out of the Province. My own impression is that all money received by residents, no matter from what source, as income, is taxable. However, the Judge held against it, and we did not attempt to carry it any further.

Mr. FULLERTON: Is not the difficulty there that the section might be read with two meanings to it, one judge taking one meaning and another another?

Mr. HUTTON: That is the trouble. You apparently do not have any difficulty here.

Mr. FULLERTON: One held that the owner was out of the Province, and the other was that the property was out of the Province.

The CHAIRMAN: It does not look as though the clause was intended to apply to income.

Mr. HUTTON: It does not look so, but it appears to have been construed by some of the judges that it was to be so.

The CHAIRMAN: A resident of Hamilton who owned a great ranch in Manitoba with a herd of cattle on it would not be taxed by you?

Mr. HUTTON: Not at all.

THE CHAIRMAN: That is a case of property held outside of the Province.

Mr. HUTTON: Yes, but he read it the other way.

The CHAIRMAN: You would tax the profit he had made out of his farm, though, when it came to him?

Mr. HUTTON: That is, any income that he might make; the profits, yes. We had a case of two loan companies that had branches in Manitoba—one of them sent on their income to Hamilton before it was distributed and the other managed their Manitoba business entirely in Manitoba and did not send the Manitoba receipts to Hamilton. The one that sent the money to Hamilton Judge Snider held assessable; the one that held the money in Manitoba he held not assessable.

Mr. MACKELCAN: Although those profits earned in Manitoba were reckoned at the head office in Hamilton in making up the dividends and declaring the profits of the company.

Mr. HUTTON: But inasmuch as they did not come here——

The CHAIRMAN: In one case it was assessed in Manitoba, in the other it was not?

Mr. HUTTON: That is the way Judge Snider held it, although they had not got that in Manitoba.

Mr. MACKELCAN: Although it was only a matter of exchange.

Mr. HUTTON: In reference to the exemption of $400 when the income is all derived from investments, and $700 when it is derived from investments and personal earnings. I think that the greatest exemption any person should enjoy should be either the $400 or the $700, not greater than the $700; that is, that a gentleman who has, say, $1,000 a year income from rents and $1,000 a year from personal earnings should not enjoy the exemption of the $700 and the $1,000 that he gets from rents.

The CHAIRMAN: The $400?

Mr. HUTTON: It is the $1,000. No rents are assessable. I don't think that the Legislature intended a man should have an exemption of $700 or $400, as the case may be, if he had a larger income derived from any other source. You see what I mean to infer. I mean that he should be assessed on the $1,000, his rents covering the exemption.

Mr. WILKIE. You don't think it commences to count until all the revenue from rents has been put aside—you first of all take out of the man's income the amount received from rents; then you take out $700 more.

Mr. HUTTON: That is the way the Act reads now. I don't think it should be so. I don't think that the greatest exemption that he should have, whether his income is from rents or from any other source, should exceed the $700. They apparently had the idea that $700 was what the average man would expend in his maintenance for the year, and of course that is more than the average man makes, the average mechanic not making $500. I don't think the rents should be assessed, but I don't think they should enjoy the exemption on account of the rents.

The CHAIRMAN: He pays taxes on his land.

Mr. HUTTON: Certainly; I am not claiming that they should be assessed.

The CHAIRMAN? But he does pay taxes on his land, and that is why the rent is exempt.

Mr. HUTTON: Certainly.

The CHAIRMAN: A man owns land and it brings him in $1,000 a year rent; he is taxed on the land?

Mr. HUTTON: Yes.

The CHAIRMAN: At its value?

Mr. HUTTON: Yes.

The CHAIRMAN: Therefore he ought not to be taxed for the rent.

Mr. HUTTON: I am not claiming that he should be.

The CHAIRMAN: Why should that have any bearing on his little income of $700 a year?

Mr. HUTTON: Well, in my humble opinion I fancy he is enjoying more benefit than his fellow-man who only earns $700 and only has that exemption. He has in addition to the exemption $1,000 clear out of his net revenue.

Mr. WILKIE: If he had an income of $7,000 a year rentals he would be exempt if that all came from rentals.

Mr. HUTTON: He would be exempt if that all came from rentals.

The CHAIRMAN: Yes, he would be exempt from personalty.

Mr. HUTTON: Yes.

The CHAIRMAN: But he is paying the full value of his land in taxes.

Mr. GEORGE H. BRYAN: But in the lease of lands in the vicinity of King and Yonge Streets, for instance, it is stipulated by the owner that the lessee shall pay the taxes on the land and buildings, and right at the corner of King and Yonge Streets the owners of that land derive an income of $2,500 yearly and pay no tax whatever. No tax is paid by the nominal owner, who is Mr. Alexander Manning. This is an illustration of a hundred cases that might be given.

Mr. HUTTON: Of course it is always supposed that the tenant pays the taxes, either in his rent or in bulk.

The CHAIRMAN: If there is an agreement between the landlord and tenant that one or the other should pay the taxes, that agreement is for some valuable consideration always.

Mr. HUTTON: Certainly; the difference is that he gets off with that much less rent if he pays taxes.

The CHAIRMAN: If a landlord pays taxes he gets more rent.

Mr. HUTTON: If the landlord has to pay the taxes he gets more rent.

The CHAIRMAN: So that it is as broad as it is long.

Mr. HUTTON: But the tenant pays the taxes, no less.

Mr. JOHN ROWLAND: That is sometimes.

Mr. HUTTON: He pays all there is in it. If you don't get enough to pay the taxes, that is different.

The CHAIRMAN: If there was no tax at all the landlord would get so much more rent; that is what it comes to?

Mr. HUTTON: Yes

The CHAIRMAN: It cannot be said that the tenant pays the taxes.

Mr. JUSTICE MACMAHON: The landlord says, "I will let you have these premises for $500 a year, you paying the taxes, or you can have them for $600 a year, the tenant paying the taxes."

Mr. MACPHERSON: The tenant pays the taxes under any circumstances.

Mr. FORMAN: Suppose there is no tenant?

Mr. MACPHERSON: Then the landlord pays the taxes; but there is no getting over the question, the tenant pays the taxes under any circumstances.

Mr. MACKELCAN: It seems to me that Mr. Hutton is right, reading the Statute as it stands. (Section 7, sub-sec. 26) Now if his exemption under the head of rental, comes to $700 or more, then he is not entitled to any other exemption, according to the literal reading of the Statute.

Mr. HUTTON: That is my view of it; but still, that is not the way it is worked out. We never assess any revenue from rents.

The CHAIRMAN: Just look at it. The reason for sub-sec 27, that the landlord is not taxable, is that land itself is taxed. It would be outrageous to tax not only land to its full value but the rent as well.

Mr. MACKELCAN: I quite agree with that.

The CHAIRMAN: So there is really no exemption. This Section 27 is not an exemption section at all; it merely says there is to be no double assessment of land.

Mr. MACKELCAN: It is, however, put down there as an exemption in Section 27.

The CHAIRMAN: It is so in form, but in substance it is not an exemption at all.

Mr. HUTTON: The way we have always viewed it is that the rents do not enter into the computation at all.

The CHAIRMAN: When you are assessing the land you try to find out what the rent is to guide you in assessing the land?

Mr. HUTTON: It has a bearing certainly.

The CHAIRMAN: It one of the elements?

Mr. HUTTON: One of the elements.

The CHAIRMAN: If the rent is fair it is a fair basis on which to fix the value.

Mr. HUTTON: Yes.

The CHAIRMAN: But it would not do to tax the land and also the rent.

Mr. HUTTON: I don't say that. We are not anxious to tax the rent.

The CHAIRMAN: One who occupies his own land, you would only get one tax from that, but you would get two taxes from the land that was occupied by a tenant.

Mr. HUTTON: Well, I presume your Honour views it in this light, that if he was not allowed an exemption it would be a form of taxation; that is, if we only allowed him an exemption of $700 it would be another way of taxing him.

The CHAIRMAN: It is to prevent the land from being taxed twice.

Mr. HUTTON: Under Section 39, sub-section 2, the personal property of banks, etc., are exempt from assessment. Of course we contend that they should be assessable, and Mr. Fullerton is putting in the changes that we all as municipal corporations desire in that. Then if you turn to sec. 7, sub-sec 20 of the exemptions, that of course exempts from taxation the stock of railways, banks, gasworks, etc. But what about the stock of the electric light and the telephones? Are they assessable for the full value of their stock? Their personal property is not liable for taxation. We did think seriously of trying it in Hamilton, but we thought we would just wait a little.

The CHAIRMAN: You refer to telephone companies and what else?

Mr. HUTTON: And electric light. Those are the only two that occur to my mind at present that are not exempt under Section 39. The others are exempted specifically as having invested their means as mentioned in that section. Of course there are other companies besides electric light and telephone companies that have lately come into existence.

Mr. WILKIE: Heat companies, power companies.

Mr. HUTTON: Yes, under this sub-sec 20 I fancy that their stock would be liable for assessment to the whole of it. That of course is something they do in the States with

the banks and the other incorporated companies—they assess the whole stock there less the real estate, and the difference is the amount assessable against each of the individual shareholders, instead of assessing the incomes; in fact I don't think in any of the States that they have an income tax.

Mr. MacKelcan: In the argument of the case of The Bell Telephone Company it was very strongly urged in the Court of Appeal as a reason why they should not be taxed that if their personal estate was liable to assessment they would be liable to be assessed on their full capital stock, and it was urged that as their personal estate was exempt they were so liable to be assessed on their whole capital stock, and therefore to tax their property in addition to that would be a double taxation.

The Chairman: How do you put that again?

Mr. MacKelcan: That inasmuch as under this sub-section 20 of Section 7 the stock held in the Bell Telephone Company would be liable to assessment because not exempted by that section——

The Chairman: That is, assessed against the owner of the stock?

Mr. MacKelcan: Yes—therefore their real estate should not be assessed at its full value. A very strong argument was addressed to the Court against assessing it at its full value, on the ground that they would be liable for a double assessment practically. That double assessment never was enforced. It was attempted, but they endeavoured to get rid of the other tax which had not been imposed upon them.

Mr. Hutton: Something has been said about the taxation of the money in the bank, and I fancy we are all agreed that all that should be assessed for is the income it will earn—not so much probably on the ground that it should not be taxed as on the ground that to tax it, as it is now, taxes unequally. That is, we find so very few cases, and the one or two cases that I do happen to know of in Hamilton I do not put them down on that ground, that I say that I am sure there are scores of others in Hamilton who had like deposits and it would be unfair to single out one or two who happen to come within my knowledge. There is another class of personal property that we do not get, that is the chattel mortgages. I see in looking over the 1893 returns of the Department of Agriculture, I see that the chattel mortgages in Ontario amounted to thirteen millions. The total assessment of all personal property in Ontario is only twenty-seven millions. I do not think there is any doubt but what this class of property is assessable, and I think it would be well if the offices in which these chattel mortgages are registered were asked to make a return to the Assessment Departments of them the same as the Registrars do now of conveyances; and I might say it would be a great help if the Registrars were also asked to make a return of mortgages. It very often would save trouble if we were able to say exactly, "You have such mortgages."

Mr. Wilkie: You say that the income should be assessed?

Mr. Hutton: No, the chattel mortgage itself is assessable I think. I do not find any clause in which it is exempted.

Mr. Wilkie: It would be awfully hard on the mortgagor.

Mr. Hutton: You think he would have to pay more than he does now? He has to pay twenty-five or thirty per cent. We would be very glad to get at the interest, although I do not think there is any doubt that the whole of it is assessable, but the commission might look into it and say whether or not it is assessable.

Mr. Fullerton: I don't find any clause that exempts.

Mr. Hutton: No, we don't find any clause that exempts, although as Mr. Wilkie says, it might be very hard on the mortgagor.

Mr. Justice MacMahon: It would be taxing household property, on which those mortgages are mostly taken.

Mr. Hutton: Yes, that is what they are generally taken on.

The Chairman: How do you tax property purchased on the hire receipt principle, where a lien exists on goods sold under hire receipt?

Mr. Hutton: The intent of the law of course now would be to tax them as against the merchant, because they are debts owed to him.

The Chairman: A man furnishes his house on that principle?

Mr. Hutton: Well, I fancy that until the merchant was paid for them it would be a debt on his books.

The Chairman: The purchaser would pay the tax, or the seller?

Mr. HUTTON: The seller would pay the tax—he should; I don't think he does, because I know a house-furnishing company that we have in Hamilton only pays a couple of thousand dollars tax, though they have twenty thousand dollars of goods out in various houses. Of course I suppose he would claim an exemption against that for, the amount he owed the manufacturer for them, the same as if they were in the store.

The CHAIRMAN: Suppose he had not paid for them himself?

Mr. HUTTON: That is what I say; he has probably not paid for them, just given his notes, and he claims an exemption on the goods in the houses of the various people the same as if they had been left in his store as yet. He offsets that, so that I do not think it can be claimed that they were assessed at all.

The CHAIRMAN: He has bought them from an outside manufacturer?

Mr. HUTTON: Yes.

The CHAIRMAN: He owes for them, he is not assessed at all?

Mr. HUTTON: He is not assessed.

The CHAIRMAN: The purchaser is not assessed either?

Mr. HUTTON: No, decidedly not.

The CHAIRMAN: The man who has furnished his house?

Mr. HUTTON: He is not assessed, certainly. I think probably the suggestion made by Mr. MacKelcan, that household furniture in excess of $700 might be assessed, might put a stop to this. I know a case now in Hamilton of a hotel—

The CHAIRMAN: A man sells a stock of goods and takes a note for it, would you tax the note?

Mr. HUTTON: Tax either the note or the goods.

The CHAIRMAN: Which?

Mr. HUTTON: I would prefer to tax the goods,

The CHAIRMAN: But the note is the property of the other man.

Mr. HUTTON: The note is the property of the other man unless he puts it in the bank, and then it is the property of the bank and not assessable, because the bank is exempt.

The CHAIRMAN: You cannot tax the goods because there is so much owing.

Mr. HUTTON: The question in my mind is, is it owing on the goods or is it owing on the note; which are you going to recover against?

Mr. JUSTICE MACMAHON: You could get judgment and recover against the goods; if they were sold on the hire receipt principle the property never passes, and it does not pass to the vendee, it is the vendor's property, then he has possession. The property never passes until the money is paid.

The CHAIRMAN: That is, if there is a hire receipt.

Mr. HUTTON: Take an ordinary transaction of a wholesale house where they sell a bill of goods.

Mr. MACPHERSON: The note is simply an acknowledgement of receiving the goods.

Mr. HUTTON: They take the note and discount it in the bank.

The CHAIRMAN: Suppose the merchant who takes the note pays it away to a creditor in payment of a debt; he parts with it for absolute value, he is no longer liable on it himself, then the man who has got that note is taxable, it is part of his investment; would you tax the goods and the note too?

Mr. HUTTON: No, I would not, I would only tax the goods, I would not take any recognition of debts at all. I would agree very largely with Mr. MacKelcan.

The CHAIRMAN: Then a man who has taken the note in absolute payment, it then becomes his investmnet, part of his property; ought not he to be assessed?

Mr. HUTTON: Well, he cancelled the debt.

Mr. JUSTICE MACMAHON: How can you assess the goods? You cannot assess them under the present arrangement at all.

Mr. HUTTON: Not under the present arrangement, I don't claim that.

Mr. JUSTICE MACMAHON: Because the man in possession is not the owner.

Mr. HUTTON: That is right, that is the law at present.

Mr. MACKELCAN: If you tax the goods you would not attempt to tax the notes or debts, because they are intangible property.

The CHAIRMAN: I am supposing the case of a man selling his goods out and out and taking a note in payment.

Mr. MacPherson : Which he does always.

Mr. Hutton : And then paying another debt with that note ?

The Chairman : Yes.

Mr. Hutton : I claim the man that ultimately has the note, it is his investment and he should be taxed.

The Chairman : It is part of his property, and the goods are part of the personal property of the purchaser.

Mr. Hutton : Nevertheless the goods are not paid for until the cash passes to the original man, although he may have parted with the goods. As far as the debt is concerned the man who bought the goods still owes for them ; he may have to pay the first party instead of the second party.

The Chairman : That seems to show that you cannot with any show of justice tax so much of a merchant's stock as he owes for.

Mr. Hutton : That is under the present Act, that is the way the law is at present, and I fancy that the general working out is that it did not aim at a man being assessed for more than what capital he has in the business.

The Chairman : So that if a man owes for his whole stock, although that stock gets the benefit of fire protection and all the other things Mr. MacKelcan has named he ought not to pay any taxes.

Mr. Hutton : He is not assessed.

Mr. MacKelcan : I don't say he ought not, I say under the present law he does not, but he certainly should.

The Chairman : But we seem to have argued out that it is not just to tax a man on what he has not paid for.

Mr. MacKelcan : That is, if you tax the note or obligation.

The Chairman : That is, whether the tax should be put upon the creditor, not upon the debt ?

Mr. MacKelcan : We think not.

Mr. Justice MacMahon : Suppose a creditor lives in New York, or Glasgow, or London, you cannot reach him.

Mr. Hutton : The difficulty is, it is hard to get at, and it will take a very large amount of time to leave a notice for every gentleman to fill up a schedule every year to do that, and we get more often on all hands "Oh, leave it as last year." That is the kind of a statement you get when you go to them. As long as you don't raise it you never have any difficulty, but the minute you suggest to them that because of better times or anything of the kind the merchant's stock and business has improved, then you get into difficulty, and he says, "Put it down as it was last year." It is very hard to increase the amount of personal property.

Mr MacPherson : Why not do away with it ?

Mr. Hutton : Well, if you cannot assess equitably under the present law—

The Chairman : Or any law.

Mr. Hutton : Or any law that way, and are not prepared to accept the suggestion of Mr. MacKelcan and assess only what is in sight, then I favour the business tax of assessment on the rentals ; but I hardly think it would be fair—although the argument has all been on that side—to apply the business tax only to the merchant, the retailer and the wholesaler, and not bring in the manufacturer. The aims of all the municipalities have been to lessen the taxes of the manufacturer.

Mr. MacPherson : But the idea is to have a business tax and put it on the manufacturer the same as anybody else. There is no exemption for the manufacturer ; he has had exemptions enough apart from that.

Mr. Hutton : And the chairman stated that as they had not appeared they seemed to be satisfied.

Mr. MacPherson : Of course they are satisfied.

The Chairman : It does not follow that others are satisfied.

Mr. MacPherson : The manufacturers have had exemptions all round.

Mr. Hutton : Some of them pay largely now.

Mr. Wilkie : Mr. Kemp argued the whole question out, I think. He is a very large manufacturer, and he did not ask for exemption, he did not say anything about

that. He spoke on behalf of the business men generally, and he made no exception, that is my impression.

Mr. JUSTICE MACMAHON: What Mr. Kemp was fighting against was the special exemptions that were made by corporations to new industries that were brought into places.

Mr. WILKIE: But he wished to have this tax on personalty taken away altogether, I mean as regards his own businsss; I know he did in regard to his own business.

Mr. HUTTON: And if you apply it to one you should apply it to all. Then of course if you do that, Section 39 will have to be made—at least we are content that it should be made—so that the personal property of railways, etc., should not be exempted, that is, railways, telephones, electric roads, telegraphs, etc.—drawing a difference between a competitive concern and a monopoly concern. I might say with reference to the argument about assessing part of goods, I just had in my mind a hotel in Hamilton who had ten or twelve thousand dollars worth of furniture and who were paying nothing, on that very ground, that they owed for it all—the Hotel Royal, in Hamilton. They came up this year and declared themselves bankrupt.

Mr. MACKELCAN: They have twenty thousand dollars worth of furniture there.

Mr. HUTTON: I suppose that there is a chattel mortgage on that. That is generally the way, the hotels are held by chattel mortgage from the brewers; that is the way most of them are worked.

Mr. MACKELCAN: I would like to say a few words in a general way so that there may be no doubt as to my meaning in advocating a tax upon personal property. I will begin by saying that it has been repeated here by a number of speakers that income tax, amongst other methods of taxation of personal property, is impracticable, and therefore it should not be countenanced; and this assertion is made in the fact of the fact that the great bulk of the income of the Government of Great Britain is raised by an income tax. If it had been so impossible properly to collect a tax from that source it does seem to be a remarkable thing that the Government of the greatest empire in the world is conducted upon a financial system which consists of the collection of taxes upon income. So that as far as that branch of the subject is concerned I think we must dismiss from our minds all idea of the impracticability of collecting it, because we have here an example that cannot be gainsaid of the possibility of doing it and of doing it most efficiently; but when the difficulty of collecting a tax upon personal property is enlarged upon it strikes me that the classes of personal property that are so very hard to reach—impossible to reach accurately—are those which, according to what I have stated on different days bofore the Commission, are represented by the tax upon money, notes, accounts and debts at their actual value. Now, my proposition is that no attempt should be made to tax these classes of property, inasmuch as those cannot be ascertained with any sort of equality. We have already dealt with the question of taxing money on deposit in banks, and it seems to be practically admitted on all hands that it is useless to retain in the Statute book any provision for taxing property of that description, for the reason that the amounts at the credit of the various persons who own the money cannot be ascertained, and in many cases that if they were ascertained and were taxed it would be a great hardship that they should be taxed to an average extent of say two per cent. Possibly they may not be earning more than two or three per cent. on the money so deposited. Notes cannot be traced. They are negotiable instruments that pass from one to another and which find their way to a very great extent to the banks. I suppose the great bulk of promissory notes that are given ultimately find their way to the banks and are there discounted and turned into current funds for the purposes of business, so that the great bulk of them are already really exempt under the Act which exempts the personal property of banks from assessment or taxation. But individual instances in which they remain in the hands or in the wallets of private individuals or of companies are perhaps so few in number that the assessors does not look for the notes. At any rate in practice these notes are never assessed, so far as anybody who knows about the assessment on property who has been before this Commission has been able to state. They escape the taxation altogether. Now, instead of that illusory taxation of notes and debts given for tangible personal property which is upon the shelves and in the premises of merchants or in the hands of individuals or hotel keepers or companies, and is, in the position where it lies, protected from loss by fire and from other loss, and is receiving the benefit of all

municipal expenditures, what we are asking is to have that property taxed, to have a tax upon property that we can locate and see and value, in place of by illusory tax upon notes and debts and moneys which we never can find and cannot trace. Tax the thing which is receiving the actual protection, and do not attempt to tax that which is receiving little or no protection, at any rate not to anything like the same extent, and then we have a system of taxation that we can actually carry into effect. I challenge any man to dispute this statement, that it is possible to ascertain approximately the value of the class of personal property that I have referred to. Every merchant has his line of fire insurance, he knows how much insurance he has to carry for his own sake; every manufacturer the same; every hotel keeper the same. They all have their approximate idea of the value of their stock, and if it is necessary to get at the exact value at any time they can within 24 hours arrive at it, because every merchant takes stock once a year at least; he has his merchandise account in which his purchases are entered, and his sales are also entered, and it is an easy thing to arrive within a very short space of time at a fairly approximate idea of the value of what he has in stock; and that information he should be compelled by law to give to the assessor upon being notified that that information must be given. So that I do not see that there is any practical difficulty at all in arriving at the value of tangible and visible personal property which should pay its fair share of taxation.

The CHAIRMAN: His book debts are just as easily ascertainable, are they not?

Mr. MACKELCAN: Well, the trouble is about the words "at their actual value." They may be good; they may be worth 50 cents on the dollar, or 80 cents on the dollar, or 100 cents on the dollar, or 20 cents, and the assessor cannot value them.

The CHAIRMAN: Many parts of his stock must have depreciated far below his cost price, or may have appreciated.

Mr. MACKELCAN: Besides, those debts are not being protected, in any way by the municipal expenditure; those are mere choses in action, as we know they are, not actual chattels, visible and tangible things. They are merely obligations existing between the debtor and the creditor, but they are not actual chattels.

The CHAIRMAN: That is the ground upon which you proceed?

Mr. MACKELCAN: Yes, that is the way I would put it. So far as stock is concerned, stock is marked down on the stock list. If it is old stock a certain proportion of the value is written off, and the merchant always tries, when he makes up his stock sheet, to arrive at a fairly just idea of what his assets are really worth.

The CHAIRMAN: For the purpose of taxation?

Mr. MACKELCAN: For the purpose of his own information in the business, and assuming that he is honest in making up his stock list in that way, the information so obtained by him can be communicated to the assessor whenever it is asked for; so that it does not seem to me there should be any difficulty whatever in arriving at an approximately fair valuation of all goods of the character that I speak of, that is, visible and tangible goods which can be seen and appraised.

The CHAIRMAN: What is the result of experience, do you think, upon that subject of taxation of merchants' stock?

Mr. MACKELCAN: Well, my opinion is that the whole difficulty has arisen from the right that the merchant has to deduct what he owes; and I know an assessor of a city in the west who says that there is a wealthy merchant in their town who knows when the assessor is about to come around, and at that time he accepts bills from persons who furnish him with goods and he always has a big liability, which extends only for about thirty or sixty days, but extends over the time when the assessment is taken; and it has been since stated here by so many persons who have had experience in assessment both in Toronto and other cities that it is impossible to get anything like a fair and honest appraisement or valuation of the stock of merchants when this floating method of deduction of what is oftentimes a purely arbitrary amount is permitted in order to lower the rate of taxation.

The CHAIRMAN: We have got that very fully, I think.

Mr. MACKELCAN: In conjunction with that I would suggest again when the commission finds this value to be ascertained, if it should be considered a hardship that personal property of this kind should be taxed to its full value, just as buildings are and land is, that because possibly the men who will have such large accumulations of personal

property are very wealthy—and I may say this, that as communities advance and as our cities grow larger the accumulation of personal property in the cities constantly grows at a greater ratio than does the value of the real estate—

Mr. WILKIE: That is not the evidence that Mr. Thompson put in. His statement is the very opposite of that, from statistics.

Mr. MACKELCAN: Yes, but that is where the point comes. He is speaking of assessed values, not of actual values. The assessment has been all covered up by liability, that is the trouble.

Mr. WILKIE: No, he spoke of the value of personal property in several municipalities, rural and urban.

Mr. MACKELCAN: As assessed, that is all. He is only speaking of the assessed value, and that just shows where the entire fallacy, you may say, of the present system of assessment comes in. We know as a matter of fact—nobody can deny it—that the accumulation of personal property in cities is constantly increasing. The wealth of cities consists in a very great measure of personal property, in a much larger measure of personal property than real property.

The CHAIRMAN: Is it not clear that it is the increase of wealth that causes the increase in the value of land?

Mr. MACKELCAN: Yes, but the wealth—

The CHAIRMAN: Meaning by "wealth" the increase of personal property?

Mr. MACKELCAN: Yes, and while that personal property is increasing it is escaping taxation, while the real estate is being made to bear a heavier burden all the time, because the assessment of the realty is going up.

The CHAIRMAN: If one is the cause of the other then why tax both?

Mr. MACKELCAN: Well, both kinds of wealth are taxed. Why should one escape? Why should a man who only owns one kind have to be constantly goaded?

The CHAIRMAN: If it would be in the public interest, in the interest of the trade and prosperity of the Province at large——

Mr. MACKELCAN: Oh, I don't see how it would.

The CHAIRMAN: ——and of cities particularly, to exempt personalty which contributes so small a proportion, at the very utmost, to the taxation?

Mr. MACKELCAN: But it should contribute a great deal more than it does, but the present law is defective. That is what we are complaining of; that is why we ask to have it changed, because the personalty does not contribute its fair proportion by any means under the present assessment law, and we want that inequality removed.

The CHAIRMAN: So far as I have been able to ascertain there is no country which seems to have been able to assess any large proportion of personal property.

Mr. MACKELCAN: Why, in the United States personal property is assessed.

The CHAIRMAN: A very small proportion, an exceedingly small proportion.

Mr. MACKELCAN: That is by reason of the difficulty in assessing the characters of property that I have spoken of—money and notes and personal property of that description, but as far as——

The CHAIRMAN: Of every kind.

Mr. MACKELCAN: But there is no question about it that the value of the personal property that has been protected in the city by the expenditure that is raised by municipal taxation is constantly increasing in volume and increasing in value. Now what I say is this, if the wealthy men that own all this personal property cannot afford to pay taxes upon it on the same basis as those who own houses have to pay taxes, then if a percentage only of that property should be taxed I think it would be fair to put it a percentage upon the value of the property, be it fifty per cent, twenty five per cent., or whatever the percentage may be, rather than upon the profits, because those profits are things which nobody can truthfully really ascertain for the purposes of assessment, and the assessment of profits will simply re-open that very inquisitorial branch of the question of assessment of personal property that it is desirable to eliminate altogether from that branch of the assessment. There is nothing inquisitorial about taking down, just as you would a policy of insurance, for the purpose of insuring a merchant's loss, the tangible, visible property belonging to anyone. It is a thing that can be got at in the same way probably with greater accuracy than the value of the real estate.

The CHAIRMAN: Is household furniture exempt?

Mr. MacKelcan: It is, under the present law. I only suggest it——

Mr. Fullerton: Sub section 28.

Mr. MacKelcan: I only suggest it on the lines of the equalization of the burdens of taxation, and in order that those who have large and valuable amounts of personal property, if they are perfectly well able to do it, should pay their fair proportion of municipal taxes, that that personal property should be liable to taxation. I see no reason why it should be exempt. I quite see that there should be an exemption of the $700 the same as on income for that which is necessary for ordinary persons. Anything beyond that, that is held as a matter of luxury or a matter of taste, is something the owners of which can afford to pay, and I think ought to pay upon as part of the measure of their liability to municipal taxation. Then in regard to income there is oftentimes difficulty in ascertaining the value of that; but as they have been able to get so near the principle in Great Britain, we might follow their method, and I think when it comes to deal next week with the subject of the duty of assessors, etc., and the mode of ascertaining what is or should be liable to taxation, that some methods may be suggested by which fairly accurate returns can be obtained and the information necessary for the purposes of assessment can be obtained with a fair amount of accuracy.

The Chairman: I understand your exception would include municipal bonds and securities of that kind.

Mr. MacKelcan: They would simply pay upon the income as they do now.

The Chairman: How is a municipal bond different from a promissory note?

Mr MacKelcan: I would exempt promissory notes and municipal bonds also.

The Chairman: They should not be taxed at all?

Mr. MacKelcan: Oh yes, on the income.

The Chairman: Then you would tax the interest on a promissory note?

Mr. MacKelcan: Oh, we include that in the income tax of the person who holds it, when he makes the return of his income.

The Chairman: And the interest accrued on book debts?

Mr. MacKelcan: The interest accrued on money, whether invested in mortgage debentures or bonds or promissory notes or chattel mortgages or merely accounts without any security or deposits in the bank—all interest and income I would tax.

The Chairman: A note, then, which a man takes in payment for goods would be taxable?

Mr. MacKelcan: If he makes interest or profit on it that would be part of his income, but if that note were taken in the course of his business, for instance, for goods——

The Chairman: If the note were taken in satisfaction for his goods, the goods would be taxed and also the note?

Mr. MacKelcan: No, I would not have the note taxed.

The Chairman: The interest on the note?

Mr. MacKelcan: Well, if that was part of the proceeds.

The Chairman: I mention what it is; it is a note taken in satisfaction for goods.

Mr. MacKelcan: Well, I would not tax the interest on that, because if he is taxed on his stock of goods with which he is carrying on his business and this note is taken in the course of that business and forms part of the proceeds of it, if that note and the proceeds of the note form part of the proceeds of the business the stock-in-trade of which is taxed, then under the present assessment law it would not be liable to taxation, and I would not ask that it should made liable to taxation. If a merchant's stock is liable to taxation, then the proceeds of that stock which go into his profits and make his income should not be liable to taxation as income. They would come under the exemption, subsection 17 of Section 7; so that anything that comes in from his business, if his stock-in trade is liable to assessment, should not be taxable as income, nor in my view should notes and money and things of that kind be liable to taxation. In that way we would only pay a single tax, that is, a single tax upon the visible and tangible property that is receiving the benefit of municipal expenditure, and there would be then, it seems to me, a perfectly equal and just distribution of the assessment over the different classes of property, real and personal, that are receiving the benefit of municipal expenditure. The question was asked by the Chairman a little while ago about the principle on which

this revenue bill of the Government was founded, and I may say they seem to have varied a little in the principle.

The CHAIRMAN: I mean that part of it which exempts investments outside of the municipality, that is all.

Mr MACKELCAN: Well, Section 8 simply says that that portion of the income shall not be assessed there; it does not say it shall be exempt altogether, and that is the reason why we thought—

Mr. JUSTICE MACMAHON: We have had all that; that has been threshed out thoroughly.

Mr. MACKELCAN: I did not intend to refer to that again, but the question was asked with regard to the manner of locating or allocating that interest or that portion of income.

The CHAIRMAN: What I wanted to know was merely this, what the reason was that the Government made that change and relieved those companies from taxation upon that part of their income which was derived from the outer municipalities? If you know, tell me; if you don't, there is an end of it.

Mr. JUSTICE MACMAHON: It was merely a lapse, it was overlooked, it was not provided for, that is the explanation.

Mr. MACKELCAN: I am not able to give you any explanation. I cannot say any more on the subject except that it is not made liable to taxation directly by this Revenue Act, and it is not exempt.

The CHAIRMAN: We have understood that for some time. Is there anyone else desiring to speak?

Mr. J. S. FULLERTON, Q.C.: I would like to add one word. It occurred to me when Mr. Hutton was speaking about the income from rent and income from other sources that the only reason for the exemption of income, for $700 or for $400, was because of the poverty of the party who was exempted. If you get an income from rent of a thousand dollars, the reason for the exemption of $700 or $400 disappears, as poverty is evidently gone. The rent is not taxed, but something else that is exempted for another reason is relieved, and it occurs to me that that relief is proper. I would also add as to loan companies and trust companies and those companies that the present law almost prevents them from investing in their own localities and drives them to other localities. If a man had a thousand dollars rent, an exemption that might be proper for poverty should not apply when his poverty ceases. That is what I thought I had said.

Mr. WILKIE: Yes, that is what I took down.

Mr. C. HAMBLY: I would just say that we had a large meeting in the central part of the city of ratepayers or property owners last Tuesday, and we appointed two representatives to appear before you, and they are not here. I telephoned but did not reach one of them. We instructed our representatives to support the view taken by the Municipal Association. There is one thing I could say that has been been brought up here in the discussion in regard to who pays the taxes—

The CHAIRMAN: This was a meeting of what?

Mr. HAMBLY: Property owners, land owners.

Mr. WILKIE: He said of ratepayers first.

Mr. HAMBLY: Ratepayers are land owners.

The CHAIRMAN: Most ratepayers are not land owners. Many of them are tenants, and I just want to know the point of view from which you are approaching the subject.

Mr. HAMBLY: Well, they are landlords at all events, owners of property. In regard to the tenants paying rents I would just like to say a word. Most of you are aware that four or five years ago there were about four thousand vacant houses in this city. Now, we had to bear the expenses, the taxes, during that time, and we could rent some houses, but when we did rent them we were very glad to get tenants in them even if we had to pay the taxes and pay the water rates. I do not want it understood that the tenant bears all the taxes at all times. It depends on circumstances At the present time everything is pretty lively, of course, and I suppose the tenant probably does pay.

The CHAIRMAN: If there was no tax would not the landlord get more rent.

Mr. HAMBLY: Well, he might get more profit on his investment.

The CHAIRMAN: More rent for his house if there were no taxes?

Mr. HAMBLY: Well, I think he would.

The CHAIRMAN: Then it must be the tax that causes him not to get so much rent, and he pays the taxes, then, isn't that pretty clear?

Mr. HAMBLY: Well, we get more monthly rent on account of the taxes of course than we would if there was no tax, probably, on the property; but what I mean to say is we would make more money out of it and at a lower rent than if there were taxes. I don't understand the situation as you have placed it—if there were no taxes?

The CHAIRMAN: You look at it from that point of view.

Mr. JUSTICE MACMAHON: You have a house that you get $10 or $20 a month rent for, and you pay the taxes out of it. If the tenant says he will pay the taxes how much would you get clear? You would get $20 less the taxes. If the taxes were $12 a year you would only get $19 a month.

Mr. HAMBLY: Yes, in all probability.

Mr. JUSTICE MACMAHON: So that the tenant pays the taxes?

Mr. HAMBLY: He would now but I would pay the taxes in a time of depression.

Mr. JUSTICE MACMAHON: I am not speaking of the time of depression, I am speaking now, when houses can be easily rented and when you have plenty of tenants seeking for houses.

Mr. HAMBLY: Yes, that is right.

Mr. MACPHERSON: It would not make any difference whether the prosperous times were in vogue or not.

Mr. JUSTICE MACMAHON: No, it does not matter; I am speaking about any day, the tenant pays the taxes.

Mr. MACKELCAN: Suppose you cannot get a tenant?

Mr. JUSTICE MACMAHON: The landlord has to pay them then, of course.

Mr. MACKELCAN: The landlord has to pay them every time.

The CHAIRMAN: I have interrupted you.

Mr. HAMBLY: I have experience in both lines. We cannot understand, as property owners, why we should pay taxes on everything that we own. A building that is mortgaged for perhaps half its worth, we have got to pay taxes on the full value, while I could take my money out of that building and go and place it say in personal property, I would go into business here in Toronto, and I could work it in such a way that they would get no taxes at all.

The CHAIRMAN: There you might lose it all.

Mr. HAMBLY: Well, yes, I might lose what I have. I have run business for 25 years, and I lost more in real estate in the last ten years than I did in the whole 25 years.

Mr. JOHN ROWLAND: That is the experience of a great many.

Mr. MACPHERSON: Why do you own the property?

Mr. HAMBLY: Well, I bought it when the times were good, and I can't sell it.

Mr. MACPHERSON: You bought it for the purpose of making money?

Mr. HAMBLY: I expected to.

Mr. MACPHERSON: Then you cannot ask us to come to the rescue.

Mr. HAMBLY: I ran a general business 25 years, kept all lines, and during that 25 years, I had about $10,000 invested; I made double the money out of that business that I can make out of my property, and of course I was not taxed, I did not pay the same taxes in proportion that I am paying now; but we cannot see why if you exempt what a man owes in any line of business, why not exempt to the amount of our mortgages? I would like some person to give me a reason why that is so.

Mr. JUSTICE MACMAHON: Your property is earning the same all the time, whether it is covered by a mortgage or not, althought it does not return the whole revenue to you.

Mr. HAMBLY: There is another argument that I think was made here by Mr. Kemp and Mr. Brock. He says ninety-five per cent. of the people that enter in business fail and five per cent. succeed. Now, then, why should ninety-five per cent. be assessed and burdened for years for the benefit of these five per cent. that enter into business that succeed?

Mr. MACPHERSON: But if they fail they don't pay.

Mr. HAMBLY: They fail, and then the five that do succeed have got to bear the burden and be responsible for their folly.

Mr. WILKIE: He referred to dealers, merchants and others who were dealing in personal property; he did not refer to real estate owners at all, he referred entirely to

business, merchants and grocers and hardware men, he did not refer to real estate speculators.

Mr. HAMBLY: Well, he referred, didn't he, to those in different lines of business?

Mr. WILKIE: Yes, mercantile business.

Mr. HAMBLY: Would it be wise then, or is it wise, to encourage men of all classes, no matter what their ability may be, to go into business and get exemption from taxation, take them out of their farms where they ought to be employed, bring them into the cities and start them in business and only five out of every 100 succeed? I think it would be better for them with us to bear their share of the responsibility and give us all equal opportunity. That is the way I would do it. I can do better now with the property I have.

Mr. WILKIE: What would you do with your vacant property if you had no people coming in from the country to occupy it?

Mr. HAMBLY: Well, there are not a great many people coming in from the country, and I have vacant property about thirteen years, and it is vacant yet.

Mr. MACPHERSON: You made a bad investment.

Mr. HAMBLY: Yes, there is no doubt about that.

Mr. MACPHERSON: You don't expect the Ontario Government to come to your rescue?

Mr. HAMBLY: Not at all, but that is just one of the exceptional cases.

Mr. JUSTICE MACMAHON: What Mr. Brock spoke of was, so many merchants made bad investments, like plenty other people, and came to grief.

Mr. MACKELCAN: That is unsound business.

Mr. JUSTICE MACMAHON: It is unsound business, but the men who invested in real estate here when it was five times its value were doing an unsound business.

Mr. HAMBLY: But this system, if I understand it right, it has been the custom for years back that only five per cent. out of 100 succeed. Well, now, would it be right or just to give them such advantages over those other people and oppress us who are trying to get along and hold our property? It would pay me better to take the money out of the property and put it in the bank or some place else, provided I could sell, but I cannot dispose of my property. I have no objection to accept what Mr. Fullerton here proposes, that if the merchants and those engaged in business were assessed at their rental, we are quite willing to be.

The CHAIRMAN: Is it not the mercantile business that built Toronto up?

Mr. HAMBLY: To a very large extent I suppose it might be.

The CHAIRMAN: Before we had any manufacturers or those large companies it was the mercantile business that made Toronto; and don't you think it ought to be encouraged, seeing that the prosperity of the city depended upon it?

Mr. HAMBLY: Well, is it not the money that is invested in property that makes a city as well?

The CHAIRMAN: It is the money which those mercantile people made which has built the city up.

Mr. HAMBLY: But the money coming in from the country and other places and invested in Toronto is what made Toronto a city.

The CHAIRMAN: It is because those people were here doing business.

Mr. HAMBLY: It might have something to do with that, and foreign capital.

The CHAIRMAN: Don't you think it would be worth while striking off the whole assessment on personal property in order to encourage the prosperity of the city? It is only eight per cent. of the whole; wouldn't you be willing to add eight per cent. to your taxes in order to increase the prosperity of the city largely?

Mr. HAMBLY: Well, if I had to increase my taxes now I don't know where I would be. (Laughter.)

The CHAIRMAN: But then supposing your rent went up immediately, wouldn't it be worth while?

Mr. HAMBLY: Well, if the rents went up we would be doing better; they would be up for a short time and then they would be down; they fluctuate a great deal. But what I say is that we have been just merely agents collecting money and taking it down to the city treasurer. (Laughter.) One gentleman here (Mr. Hutton) proposes, if I understood him, that they would assess the rents we are getting from the property that we own.

The CHAIRMAN: Oh, no

Mr. HAMBLY: That is not the intention? Well, I am glad of that.

The CHAIRMAN: If those two gentlemen wish to appear before us they can do so to-morrow at half-past ten. Does anybody else desire to speak?

Mr. GEORGE T. BRYAN: There was a phase of this question under discussion that I should like to treat, but in doing so I must resort to facts and figures, which you know is rather a dry subject. I wish to treat with the experience of the Act with regard to all the assessments of personal property in the various States of the Union to the south of us. If it were so desired I would be quite willing to abstain from what I may say until to-morrow.

The CHAIRMAN: I think we will hear you now.

Mr. BRYAN: I want to give a complete answer to those gentlemen who desire to maintain the present assessment of the personalty, and who are endeavouring to make the assessment law more stringent. I want to show from the records of numerous States and to quote from the official records of tax commissioners and show wherein this question is a most difficult one to deal with and wherein the taxation of personal property is impracticable. Without treading upon ground already gone over but to a slight extent, I would supplement upon what has been referred to by treating somewhat explicitly of records of experience in various States of the Union, and conclusions of authorities appointed by Legislature to examine into this question. For much of the information which I am permitted to give the Commission I am indebted to Mr. Lawson Purdy, Secretary of the New York Tax Reform Association. According to the available records of assessment pertaining to personal property in the State of New York, it is found that personal property—in proportion to the real estate—has been constantly decreasing. This may partly be accounted for owing to the generally expressed sentiment against its taxation; but more particularly is it to be accounted for because of the difficulty experienced in levying upon it. In some instances, not many, the valuation of personal property within recent years has increased over preceding periods—though in not a few instances the amount of personal property assessed is less than in the year 1870. In five farming counties referred to by the State Tax Commissioners in a recent report the assessed value of personal property in 1870 represented 25 per cent. of the total assessment and in 1897 only half that proportion. As it applied to the city of New York in the year 1870 personal property paid 29 per cent. of the taxes, with a much greater population and generally increased wealth to-day. The proportion of personal property discovered and the per cent. it pays taxes is less than 18 per cent. The decrease of taxable personal property has been general throughout the State, and is well illustrated by these instances: Queen's county, N.Y., in which there are numerous cities of a population of 50,000 and over, real estate has increased in value more than five times, while personal property has decreased over 30% since 1870. In Munroe County, which contains the City of Rochester, although real estate is more than double in value that of Oneida County, which is a farming county, personal property is nearly double that of the former. It is not so difficult to find and assess personal property in the country districts, but as population in large cities grows the difficulty of assessing increases. Reverting to New York City this remarkable fact has been brought out by the Tax Commissioners that over 14,000 persons and corporations were placed on the tax rolls for the year 1897 who subsequently swore that they had no taxable property. Altogether less than 22,000 persons and corporations, exclusive of shareholders of banks, are assessable in New York City, an evidence that something is radically wrong somewhere. To give an odd comparison, there are 32 cities in Massachusetts with an average population of less than 50,000 persons, of which the number taxed on personal property aggregates 82,211. If the same proportion had been taxed in New York County, the total population being about the same, the number taxable would amount to 97,863. And yet, the methods employed in Massachusetts and New York States are practically the same. In the cities, the evidence shows taxes on personal property fall chiefly upon merchandise and machinery. Where the tax is fairly imposed it is inevitable, and most economists bear out the statement that it will be shifted to the consumers of the goods manufactured and sold. Machinery, according to a report of the Tax Commission of Massachusetts, is one of the most difficult things to value correctly, and they recommend that the tax on machinery be altogether abolished. As to personal property generally various commissions have always denounced the law imposing taxation upon it. Of all the various States, Pennsylvania alone stands out as

the one State wherein personal property locally is exempt from taxation, but which for State purposes only is taxed three mills in the dollar. "In Pennsylvania," says the report of the Commission appointed by the Governor in 1872, "under her existing system of local taxation, less dissatisfaction is probably expressed, and less trouble reported by officials than in any other State." Some years ago the City Council of Philadelphia, when the subject of a personal property tax was under discussion, requested its Law Committee (consisting of nine members) to consider and prepare a bill for the imposition of personal property taxes. Subsequently the Committee submitted a report, declining to forward any such movement on the ground that after close examination they were satisfied that it would "injure the business interests of the city, and stop or retard the growth of our industrial establishment." Dealing with the effect of the proposed change on the real estate property of the city, the Committee say, "Will the owners of real estate be relieved of any of the weight of local taxation by imposing a part of the levy on the business of the city? Capital, business and industrial establishments alone give value to city real estate. With it the real estate can be made to produce revenue, maintain or increase value; without it, comes depreciation in values and want of occupation for large classes of people." These statements strangely contradict the statements of those who would like to, but cannot, tax everything in sight. "If, therefore," the report continues, "a tax imposed on the business interests of the city would have an unfavourable effect upon its growth and prosperity, a transfer of a part of the tax levy to property in business would, in effect, be an injury to the owners of real estate. This, we think, would result. We cannot afford to try the experiment of imposing a tax on our manufacturing interests." To the adoption of this policy, applied throughout Pennsylvania, may be accounted the vast increase in population and wealth down to the present time, which is largely in excess of that of the State of New York. Governor Pingree in a recent annual message to the Michigan Assembly very wisely said that those who invest their capital in channels of trade which increases the material prosperity of the city should not be taxed as a penalty for their enterprise; rather should they be exempted from such burdens in order to induce others to make similar investments. In Baltimore, Maryland, the plant and tools of the manufacturers are not taxed. In an official document the Merchant and Manufacturers' Association of that city declared "that the exemption of manufacturing plants has been one of the greatest sources of prosperity to Baltimore, and that the impetus thus given has far exceeded in value the taxes which have been abated." In this same respect similar testimony has been given showing beneficient results of the exemptions applied in this Province under the optional law which permits municipalities to exempt the plant, machinery and tools of trade engaged in production. This optional law has unquestionably worked to the advantage of our commercial and industrial establishments, and might with very good reason be extended so as to include not only personalty generally and income, but improvements as well. In the State of Massachusetts the proportion which personal property bears to the total valuation varies greatly throughout the State. Generally it has been found that in the country districts the proportion of personal property assessed far exceeds that discovered and assessed in the cities where the value of real estate is five or ten times greater than the real estate values of the country. This anomalous condition is partly accounted for by a statement in the report of a State Commission in October, 1897, which says, "The forms of personal property which are most regularly and uniformly taxed are live-stock in farming towns, and ships and vessels. In a farming town it is as well known how many cattle a taxpayer has, as how much land he owns." The Commission further reports that stock in trade forms a very important part of the personal property taxed. One recommendation of the Commission is "that machinery should be exempt from taxation as soon as may be permitted by the general condition of our tax system and by the financial situation of the State and the local bodies." The conclusion of the Commission is "that the taxation of personal property in the form of securities and investments is thus a failure. It is incomplete, uncertain, not proportionate to means as between individuals, grossly unequal in its effects in different parts of the State." The experience of Massachusetts in this regard is the same as that of the other States of the Union. "Everywhere, without exception, the testimony is that this part of the system of the general property tax is unequal, unsuccessful, often demoralizing to tax officials, always irritating to taxpayers. . . . The standard of public duty continues to be high, and the cause of failure is not to be found mainly

in official dereliction. It lies in the system itself." A very striking illustration of our taxation method happened not long since at Catlettsburg, Kentucky. The councilmen of that city had observed the fact that "a good many things are not taxed yet," and forthwith that intelligent body started on a hunt for numerous business concerns upon which it might gather additional revenue. It found spoil in the insurance companies, of which there were about twenty-five in the city. "These companies are making money out of the people of Catlettsburg; why should they not pay for the privilege?" was the chief argument advanced in support of an ordinance requiring these companies to take out an annual license. To explain that such ordinances would tend to drive insurance companies away, and by giving a monopoly to those that remained would enable them to get the license fees back from the people in higher rates of insurance, was all in vain. This talk was regarded as mere theory by the council. So the ordinance was adopted. What was the result? Twenty insurance companies withdrew from the city, and, in consequence of this slackening of competition, those that remained found it practicable to make an advance of twenty-five per cent. in their insurance rates. This is only one of the many forms of taxes ingeniously proposed by "the tax everything-in-sight" citizen, which drives industry and capital out of existence, to the impoverishment of the community. Referring to personal property taxation in the State of New Jersey, a State Commission in a report for 1897 says, "Indeed, this has gone on so long and proceeded so far (speaking of personal property evasion) that it is now literally true in New Jersey, as in other States, as has been well said by another, that the only ones who now pay honest taxes on personal property are the estates of decedents, widows and orphans, idiots and lunatics." In the State of Ohio, as in other States, there is a severe listing law which requires every taxpayer to make a detailed statement of all his personal property under oath. This is supplemented by a Spy law giving 20 per cent. or more to every spy who will expose false returns of personalty. If we seriously contemplated following the advice of those well-intentioned, but misguided persons, who would, if they could, apply a tax inquisitor law in this Province, the example of Ohio experience should prove a warning against any such proposal. Of four city counties in which are the cities of Cincinnati, Cleveland, Columbus and Toledo, taken together, comparison with the rest of the States shew some pretty results. In these city counties the value of the real estate in cities and villages is more than ten times the value of farm lands. Yet, while the remainder of the State is taxed on $394,771,581 of personalty, in these city counties only $119,268,190 of personalty is taxed, shewing most clearly that personal property in cities can be adroitly hidden from the assessors, while in the agricultural districts it is comparatively easy to discovery. In Cincinnati, for instance, there was on deposit in the banks in the year 1892, the sum of $29 000,000, and not strange to say only $1,300,000 was found for taxation by the assessors. In 1882 there were listed 118,386 watches owned by individuals, but five years later they were listed only 114 631. Of pleasure carriages there were listed 254,918, but in 1887 there were only 224 440—30,478 less than there were five years before. These results, it must not be forgotten, were shewn under a severe listing law. In the report of the Tax Commission appointed by Governor McKinley for December, 1893, it says, that "while in the city counties . . . taxation of intangible property is perhaps feasible, it is in the city counties an utter failure. The system, as it is actually administered, results in debauching the moral sense It is a school of perjury. It sends large amounts of personal property into hiding. It draws capital in large quantities from the State. . . . The moral sense of the community is blunted, its citizens are made familiar with all manner of evasion; they are taught to lie." In Illinois State the statutes require personal property of every nature to be listed yearly according to the quantity owned on the first of May Persons listing are required to make a full statement under oath incurring severe penalties, of all taxable personal property in their possession or under their control But notwithstanding this severe law the anomalies and contradictions that exist throughout the entire State, as recorded in the Labour and Taxation reports of the Illinois Assembly for 1892, attest a remarkable condition of affairs, even worse than in the State of Ohio. To change the tax system of Illinois requires a constitutional amendment, and the Commissioners appointed by the Assembly recommend as a means towards solution, a bill for local option in taxation, by which municipalities can determine for themselves what classes of property should be taxed In the State of Missouri the records shew equally bad conditions.

In the city of St. Louis, for instance, personal property represents 14½ per cent. of the total valuation, and in Camden County, a farming district, it amounts to 37 per cent. Numerous other States might be referred to in the same way, but it would be merely a repetition of the old story that personal property taxation is a dead failure everywhere. In considering the percentage of personal property assessed in the United States in comparison to the valuation of real estate, which appears to some extent larger than in this Province, it must be understood that classes of personal property are taxed or supposed to be taxed there, which under our assessment law are exempt. The taxation of personal property generally, as a West Virginia Commission puts it, "was as voluntary as putting money into a contribution box." Recorded experience undoubtedly verifies this statement. To conclude my statement of facts and testimony bearing upon this question, I quote from the report of the Federal Commission appointed by the President of the United States to investigate tax assessments in the District of Columbia, submitted to the House of Representatives April, 1892, that part which deals with the taxation of personal property: "In the last report of the assessor for the District of Columbia it is intimated that 'the public conscience is becoming somewhat elastic on the subject of taxation.' This is putting an obvious fact very mildly indeed. So far as our investigation goes it would be a better expression of the truth to say that in matters of taxation there seems to be very little public conscience left, and that the general sentiment is that no one is bound in honour or honesty to pay any tax that he can by any device escape from; and men whose word is as good as their bond, who would feel themselves disgraced in depriving a private creditor of a penny of his due, makes no scruple whatever in defrauding the Government of its claim and shirking their responsibility for what is held to be their due to society in return for the benefits which they receive from society. At the bottom of this deplorable sentiment, we are convinced, lies a feeling not merely of injustice in the manner of levying assessments, but of injustice in their subjects; and in the minds of the thoughtful men who have appeared before us there is a general and most decided opinion that taxation for the needs of the district should be concentrated upon one subject, the existence and value of which can be readily ascertained and the justice of taxing which is perfectly clear. By law personal property in the District of Columbia is liable to the same rate of taxation as real estate, though the method of ascertaining it is different. But the attempt to tax personal property in the district has, as is the case in all large cities through the country, degenerated into what would be a farce it it were not worse. Taxes on personal property can be collected in sparsely settled farming communities, where every man knows his neighbour, and where the comparatively little that each man has is a matter of at least neighbourhood notoriety; but, though taxes on personal property may be collected from the poorer inhabitants of sparsely settled districts, they cannot be collected from the rich in great cities; and in the District of Columbia, in spite of the rapid growth in population and wealth and the settlement here of many men of large means, the returns for personal property have been falling off until they now amount to the preposterous sum of some twelve millions." The following quotations from report of Toronto Board of Trade are apropos of this question: "Whatever makes personal property abundant and labour active, says Shearman, is sure to increase rent. Wherever large amounts of goods are situated, rents are always high. Wherever people are discouraged from making and keeping stocks of goods, rents will be low. Rent, therefore, is an almost infallible measure of the value of personal property, and of the productiveness of labour in any place. What a stimulus would be given to the trade and commerce of Toronto if it were relieved of pressing tax burdens and provided with better markets! Suppose business men were freed from part of their obligations to the community, would they not be in a better position to compete with the merchants and manufacturers of other localities who are now underselling them, because of the few restrictions resting upon them? Are not numerous business concerns encouraged to move elsewhere on account of better inducements? There can be no denial of the fact that within the last ten years scores of manufacturers have left the city, as also numerous other concerns, besides the many who have retired altogether from business. In view of the facts stated we must adduce one thing and that is, that real estate values have declined largely in consequence of the loss of manufacturers, and a numerous population of workers. This fact cannot be too strongly borne in mind. The owners of real estate must know by their experience in recent years that their improved property has given

little in return and in many instances has produced no return in interest whatever to them. What folly it is, then, for this class to oppose a change in the incidence of taxation, that will likely induce men of capital to move into our midst to engage in enterprises requiring the aid of artisans, clerks and labourers, and who would thus bring with them their personal property, and keep within our gates all those who are now in our city? An increasing population means a filling up of our vacant dwellings and stores, thus affording additional revenue to the owners of improved property, and a better and more profitable market for our business men. The prevailing system of taxation is inherently defective, otherwise there would not be presented such a spectacle as the report herein contains. There is only one effective way by which the many inequalties, injustices, and other harmful results attending the taxation of personal property can be remedied, and that is abolishing taxation on personal property entirely. As a step towards bringing about this result we would suggest to the Municipal Council that it secure legislation from the Provincial Government permitting local option in matters of taxation, leaving to the judgment of the Council or the citizens the right to adjust taxation in the manner that best suits the needs of the community. And it is our opinion, should legislation be secured, that immediate action be taken to concentrate taxation upon buildings and land exclusively, which source is least liable to undervaluation, and which alone reflects (in increased values) the growth and industry of the whole people. "They are the moonstruck theorists," said an economist, "who in contradiction of all the facts and all the experience of the world, persist in the vain endeavour to tax personal property, and in the absurd assertion that this taxation is just."

The CHAIRMAN: Is that not a rather strong statement—that scores of manufacturers have left the city?

Mr. BRYAN: I am reading from the report of the Toronto Board of Trade, dated March 30th, 1897.

The CHAIRMAN: With reference to the difficulty of making a full and fair taxation of merchants' stocks, is there any practical difficulty there? Mr. MacKelcan seems to think there is no practical difficulty in assessing merchants' stocks.

Mr. BRYAN: There has always been a practical difficulty involved in the assessment of merchants' stocks.

The CHAIRMAN: He proposes, you know, to remove the clause which requires credit to be given for debts.

Mr. BRYAN: We will assume that in one establishment there is $10,000 worth of personal property, whether it is paid for or not.

The CHAIRMAN: Yes.

Mr. BRYAN: Well, how does Mr. MacKelcan propose to deal with it? He sends in his assessor and asks the merchant what is the value of his stock. The merchant says, "Oh, you are the assessor, are you? Well, you can put me down for $2,500." You have got to rely upon the statement of the man himself, and even if you tell him that he has got to make a report in writing he is going to lie, just as they have lied in every State in the Union. They have abolished personal property throughout Great Britain for the very reason that those inequalities exist, that it is possible under that system to evade. They have adopted the income tax because it is the nearest approach to an equitable system of taxation; that is why it exists in Great Britain. They do not propose any substitute in the United States, but the universal testimony of all authorities I refer to—State Legislatures, Judges who have been on commissions, business men of all classes—the universal testimony in all the States of the Union from the history of the situation as I have read it, and I have given considerable study to it, is that personal property taxation cannot under any circumstances be justly imposed.

The CHAIRMAN: That is quite true, if you include all personal property.

Mr. BRYAN: I include all personal property. Household furniture, for example, is exempt, so that a man's private dwelling is not liable to be invaded by the assessor. Where that is so of course is is outrageous almost, but his household furniture is exempt. I was just confining myself and my question to a man's stock in-trade. Mr. MacKelcan would say that 9 men out of 10, or perhaps 99 out of 100, would take stock every year and would have a record of it in their books for their own information and safety, and that that would be available to be looked at by the assessor in order to ascertain what a man's

stock was at any time ; but, as Mr. Kemp has pointed out, it was only a matter of book-keeping for a business man to have two sets of books.

Mr. MacKelcan : You don't suppose wholesale men would be scoundrels ?

Mr. Bryan : Assessors and assessment departments both prove what I say.

Mr. Wilkie : Mr. MacKelcan says that personal property has increased very much more than the profit on real estate.

Mr. MacKelcan : I think so.

Mr. Wilkie : Is it that the merchant has not told us, or the assessor has not been able to find it ?

Mr. MacKelcan : No, but because under our present law you can only assess so much of the personal property as shall exceed the debts.

Mr. Wilkie : That is no increase of personal property if it does not belong to the man.

Mr. MacKelcan : We heard here that Mr. Brock is assessed for $100,000.

Mr. Wilkie : I think the confession of the assessor himself, that it is impossible to assess it, is the proper answer. They say they cannot find it.

Mr. MacKelcan : Not under the present law ; that is why I ask the law to be changed. I know whereof I speak when I say, because I have had a great deal ef experience in matters of this kind, that it is not a difficult thing to arrive at the gross value of the stock-in-trade of any wholesale or retail merchant at any particular time. Take the case of a fire ; it is soon made up.

The Chairman : Is there much difficulty in ascertaining the difference between the amount of a man's stock and the amount of his assessable stock-in-trade ?

Mr. MacKelcan : Oh, yes.

Mr. Bryan : There is the difficulty.

Mr MacKelcan : The amount of his assessable stock under the present law ; that is to say, it is very easy for him to cover it up with liabilities.

Mr. Wilkie : Oh, no ; it is the easiest thing in the world to find out a merchant's liabilities if you have access to his books.

Mr. MacKelcan : I beg pardon ; I speak from experience when I say that.

Mr. John W. Rowland : Every merchant is supposed to take stock once a year, and he has a stock book and his list of liabilities, and I maintain that there is no trouble at all in finding out what a merchant owes at any time, and if he does not, then he is not fit to be in business. I speak as an old merchant.

Mr. Justice MacMahon : If a merchant is honest it is all right, but we have on record a case in the City of London where a merchant, for the purpose of deceiving the bank, kept two sets of books, one which he kept himself and another his bookkeeper kept ; one he showed to his banker and the other he concealed.

Mr. John W. Rowland : Such cases will occur. I remember some years ago the principal of a very large concern in Montreal told me that they had just taken stock, and their agreement was that after stock had been taken at its intrinsic value any partner could demand his proportion of the concern in cash, less 10 per cent., which was allowed for depreciation in the book debts and everything of that sort. It is an absurdity to say that you cannot get at the value of a merchant's stock, less the liabilities. Of course there are cases where there will be cheating ; that is the case in everything ; there are men that will lie and that will try to deceive and that will deceive, but we must throw that over. One of the Single Taxers said this morning that 95 per cent. of the tax is now altogether on real estate, and yet they want to put the other 5 per cent on. It seems to me as if they are never satisfied. Speaking about single tax, we might just as well have it in Toronto now, because we do not own our property. The city takes a third of the value. If a man has three houses or properties at the ordinary rents, the city takes one-third of it and puts it into the city chest. I think Mr. Forman will bear me out in this.

Mr. Bryan : In connection with the abolition of the personalty tax, there is just a suggestion that I may throw out. The question might be asked, " Where would the revenue come from, assuming you abolish the personalty tax, which in Toronto varies between 7 and 8 per cent. ? Why, we would spread it over the real estate for the time being. Assuming, further, that the government of Toronto were deriving an additional tax from the franchise corporations of our city, assuming that they were taxing those franchise values, it would return a larger revenue than they derive from the present

taxation of personal property, their plant and equipment. We would have the difference made up, more than is necessary. The tax, then, upon the owners of real estate would not be felt at all, in fact the tax would be lightened ; and if we went further and removed part of the exemption upon the church and educational institutions and taxed the land which they occupy, the tax rate of Toronto would be brought down to a level of twelve mills, and I don't think there is any owner of real estate who would complain on that score. But it must not be forgotten—and this seems to have been overlooked by every man that wants to tax everything in sight—that the business man and retail shopkeeper, the wholesaler and the manufacturer, he himself is a real estate owner with the others, and has got as much right to speak in the interests of real estate owners as these special pleaders who come here and desire a little pap from the Government in the way of reduction of taxation. They are special pleaders, that is all there is to it. The business man, the manufacturer, is a real estate owner with the rest of them He has no desire to escape his just taxation ; they are simply striking for a juster distribution of it, and these manufacturing and commercial interests are the very elements that make our rent and the value of the land in the community. You take away those elements, remove them from our midst, where does your rent and where does your value come from ? So that there is nothing left.

Mr. JOHN ROWLAND : I do not like to be called a "special pleader." In this case, I think the other parties might be called special pleaders. We simply want that we should bear our fair share of taxation, and we pay more than that now.

Mr. MACKELCAN : As I cannot be here to-morrow I would like to say a few words now. The tirade, we may say, against the taxation of personal property that Mr. Bryan has just read related almost altogether to taxation of intangible personal property. Now, we quite agree that that intangible personal property which comes under these terms, money, notes, accounts and debts——

The CHAIRMAN : You have told us that very fully several times

Mr. MACKELCAN : If I should repeat myself once, I may say that other gentlemen who have addressed the Commission here have repeated themselves twenty times

Mr JUSTICE MACMAHON : We don't want you to follow their bad example.

Mr. MACPHERSON : Once is enough.

Mr MACKELCAN : Mr. Bryan seems to have set up his man of straw in order to knock him down. Nobody is advocating that taxation of all intangible personal property of all classes that he referred to. He has referred to the case of some insurance companies that removed themselves entirely from the municipality because they had to pay taxes. I may say that with us those insurance companies always paid without any objection a tax until last year, when it was perhaps unintentionally removed by the Government. We simply ask to have these put back where they were before, and in this system of taxation, which the Board of Trade so very much desire and which they advocate the adoption of in the city of Montreal, the insurance companies are paying an annual special tax of $400 on every fire insurance company taking risks in the city ; so that as far as the approval or disapproval of the Board of Trade is concerned, they appear to be quite in favour of the system of taxation in Montreal, and that also includes a tax on the insurance company.

Mr. WILKIE : There is no income tax, though.

Mr. MACKELCAN : It is more than an income tax ; it is an annual special tax of $400, whether they make or lose. They might make no profit at all, and I dare say in Montreal many insurance companies make profits instead of losses, because they take the profits from our Ontario cities to pay the losses in Montreal. That is the way the insurance business is done as between Ontario and Quebec.

The CHAIRMAN : That has nothing to do with it.

Mr. MACKELCAN : We only ask them to pay upon the profits, that is all. It has been referred to by Mr. Bryan as if it would drive all the insurance companies from the city. If they only paid it on the profits they would not object to it If they could not make any profits they might move, but if they are only taxed upon their profits they are perfectly willing to stay.

Adjourned at 4.30 till 10 30 a.m. to-morrow.

ELEVENTH DAY—SATURDAY, NOVEMBER 24, 1900.

The Commission resumed at 10 30 a.m. Present :—The same Commissioners.

A communication from Mr. John Idington, Q.C., of Stratford, respecting the assessment of the income of commercial travellers under section 38 of the Assessment Act was received ; also one from Mr. F. S. Spence relating to taxation of mercantile businesses.

The CHAIRMAN : We shall proceed now with the consideration of the subject that was before us yesterday, taxation of personal property and income, and we will be glad to hear from any who are present and who desire to speak on the subject. Mr. Hambly, are your friends here to day ?

Mr. HAMBLY : They are not here yet. I expected them here this morning. I wrote to one and asked him to call the other up, and I have not heard from them since.

The CHAIRMAN : Is there anyone else here who desires to be heard ?

Mr. J. S FULLERTON, Q.C. : I want to submit to the Board the judgment of Judge McDougall, re Edinburgh Life Insurance appeal, which has just been handed out this morning. (*a*)

Mr. WILKIE : Is it the decision of Judge McDougall on income ?

Mr. FULLERTON : On the assessment of foreign companies that are located here. He has held in the case that this company was assessable here, with some hesitation, some doubt.

The CHAIRMAN : That company has an office here and does business of life insurance and lending money ?

Mr. FULLERTON : He states the facts in this way :—" The Edinburgh Life Assurance Company has its head office in Scotland. At one time it conducted some of its life business in Canada, but for some years past it is said it has ceased to do any new insurance business in Canada. It, however, invests some of its moneys in Canadian mortgages and other securities, and has an officer or agent here who collects premiums on the old business and adjusts losses upon any policies becoming claims Mr. Kingstone, the solicitor, whose name appears on the roll as representative of the Edinburgh Life Company looks after its investments. There is also a local Advisory Board in Toronto, which reports on proposed investments. This Board, however, has no power to accept a loan, the final decision resting with the Home Board. Payments of interest on some investments are made to Mr. Kingstone, and some payments are remitted by the borrowers by draft direct to the company. Moneys received by Mr. Kingstone, from principal or interest, are deposited by him to the credit of the Company in a Toronto bank, where the Company have a bank account in their own name. In cases of new loans, checks are drawn upon this bank account to supply same on the authority of the Home office, and if there is not sufficient money at the credit of the Company, the necessary amount is usually transmitted by draft from Scotland to the bank here or direct to the borrower. All mortgages are in duplicate ; one counterpart is sent to the Head Office in Scotland. Mr. Kingstone is paid by salary or allowance and not by commission. He receives his remuneration directly from the Head Office. His dealing with the investments is not mixed up in any way with the agency which collects the life premiums and settles the losses. The city of Toronto have assessed the Company by name, adding Mr. Kingstone's name on the roll as representative, for $19,600 The Court of Revision confirmed this assessment, and the present appeal is made to me in the usual way." He comes to the conclusion that they are assessable for income, but expresses a great deal of doubt, and I thought this judgment might throw some light on the discussion we had yesterday on this question, and I will hand in copies if you think desirable.

The CHAIRMAN : We have agreed to apply to the several County Judges throughout the Province for a note of points which have come up before them for adjudication, and their rulings upon them, and we would be very glad to get something of that sort from

(*a*) See No. 19 in Appendix A.

Judge McDougall in as brief a form as it would be convenient for him, and I suppose the junior Judges have also had experience of this sort, have they?

Mr. Fullerton: In Toronto, some, not to a large extent, though Judge Morgan in Judge McDougall's absence has on many occasions heard assessment appeals, and has on several occasions taken the evidence in large appeals for Judge McDougall.

The Chairman: In cases where these judgments have been reported we should not ask the learned Judge to do more than give their reference to them.

Mr Fullerton: I have no right to speak for our own Judges, but I have no doubt as far as they can they will assist.

The Chairman: I am not surprised at the doubts that Judge McDougall expresses in this particular case. It is pretty hard to say that there is anything that might be called income in this company from one particular branch of its business, within the meaning of our statute. If the statute had discriminated between income in one country and in another, the income in this country, it would have been different, but the income of the company must take in its whole business.

Mr. Fullerton: I think that is where the Judge found great difficulty in coming to his conclusion.

The Chairman: Of course, if the assessment was on the gross income, one part might be assessable in one place and one in another. Our Act does not seem to mean gross income.

Mr. Fullerton: I see he touches the point here: "I think that the decision in the case of the City of Kingston v. Canada Life must be confined in its application to domestic or home companies having their head office within the Province." I suppose the reason for that is that the company could ascertain here the profit or loss.

The Chairman: That is not the profit or loss of the company. They must take all their expenses into account.

Mr. Fullerton: The argument that was made before you yesterday was there might be a loss in one and a gain in another. If we take the case of a gain in Canada it would hardly be reasonable that losses in another country should prevent us from assessing that gain here, whatever might be the case between parts of this Dominion.

Mr. Hambly: On behalf of the Ratepayers' Association I would thank you gentlemen for waiting in order to hear what we have to say, but I think it will not be necessary to prolong it any further. I have done my best to get the other members here this morning, and therefore the matter might be adjourned or closed.

The Chairman: We are sorry they are not here to be heard, because they represent a very important class of the community.

Mr. R J. Fleming: Would you allow me the privilege of referring to a matter that was before your Board two or three days ago? I didn't happen to be here at the time.

The Chairman: Certainly.

Mr. Fleming: It is in reference to the taxation on Government property, specially for their local improvements. Now I know the Government claim that their buildings should be exempt. I cannot quite see any reason or any argument that will exempt the Parliament Buildings and the grounds around it from taxation that would not apply to any large manufacturing concern in the City of Toronto. The Government say that the bringing of the legislators here and the erecting of buildings of this kind in the City of Toronto are a benefit to the city, and for that reason that they should be exempt from taxation. Now, that argument will apply, as I say, to large manufacturers; and further than that the Government did not erect these buildings here because they are going to be an advantage to the City of Toronto; they erect them here because they are of advantage to the Province of Ontario. If that be correct, why should not the Province of Ontario pay for that advantage? Now as to the question of local improvements around these buildings, it does appear to me that there is no argument in reason that can be given why the Government should not pay for the road that is around those buildings. I cannot see why the property owners who have property opposite the buildings have to pay their share, and then the city as a whole has to pay for the road that is around the Government buildings. But where you come to property that is not used by the Government for which it was intended, such as the Old Upper Canada College grounds, then I think it nothing short of outrage upon the public that the public should have to put down first-class roads and first-class sidewalks for the benefit of the Government, for this reason:

the Government hold that property for sale; when a roadway is put down there—and a sidewalk around that property would cost, I am safe in saying, $25,000, perhaps a great deal more than that,—that roadway enhances the value of that property far more than the cost of the pavement. That being the case why should not the Government pay for it? Why should the City of Toronto have to pay for it? I cannot conceive of any reason. The same argument would apply to the old Parliament Buildings that have been abandoned by the Government. Then I take the Asylum grounds on Queen St.; there is a large block of land there; the people on the street desire to have a first-class pavement, it has to pass the Government grounds; the city as a whole has to pay for it. I don't know what advantage it is to the City of Toronto to have an institution of that kind, a very necessary institution, but to have thousands of the unfortunate there; and that being the case, I don't know what reason the Government have to refuse to pay for the sidewalks and for the streets that pass that place. The same argument applies to the prisons and penitentiaries and a score of those other buildings. In the case of Toronto University I think there would be arguments that could be brought for the exemption of that building that would not apply at all to those other buildings that I speak of, and I don't think that they should be in the same category. There are a large number of the buildings that are under the Government that undoubtedly should pay a local improvement tax, whether the Commission see their way clear to assess them for the general tax. I think they should pay the general tax, because those buildings are not erected for the benefit of the City of Toronto, but because it is an advantage to the Province to have them here.

The CHAIRMAN: They would be very glad to have them all in Kingston or Hamilton.

Mr. FLEMING: We would be very glad to have them there.

The CHAIRMAN: Would you go so far as to kill all exemptions?

Mr. FLEMING: On everything? Well, if you want me to be very frank with you, I don't think it is a thing you can do. With the question of exemptions you have to be reasonable, as you have with other things. I think there is a happy medium. There are a large number of properties that are exempt to-day that undoubtedly to my mind ought not to be exempt.

The CHAIRMAN: How do you account for this, that whenever there is a new institution to be built by the Government, for the blind, or an asylum, or anything of that kind, half the municipalities in the country cry out for it, they want to get it.

Mr. FLEMING: Just the same as I account for the fact that if a man is going to leave the place where he is residing at the present time, every other municipality in the country would like to take him into that particular municipality. If a manufacturer is going to leave any part of the Province, every other municipality would like to have him go there.

The CHAIRMAN: Those are taxable.

Mr. FLEMING: But even supposing they are not taxable, the fact that they employ men and that the men buy houses in the city and buy goods, is a reason why they would like to have them in the municipality. It does not strike me that that is any reason why they should be exempt.

The CHAIRMAN: Belleville or Kingston asks for an asylum, to go there and then after they go there they say, "Now, you ought to be taxed;" and the Government answers, "We came here at your request."

Mr. FLEMING: Then there should be a definite special bargain, if that be the case. If the people of Kingston desire an institution to go there, they should arrange for exemption, just the same as a manufacturer coming to Toronto should arrange for exemption. If a manufacturer comes here without an arrangement, we have the power to assess him.

The CHAIRMAN: They go there under the municipal law, which is the law of exemption, and then afterwards the municipality says they want to tax them; isn't that nearly equivalent to a contract?

Mr. FLEMING: The law is always being changed to the detriment of somebody. When these buildings were put up the streets were not in existence and the pavements were paid out of the common fund. They could have left those buildings with the sand in front of them, left those mud roads as they were, but under the local improvement system the ratepayers have the right to ask for a certain pavement or ask for such pavements as are around these buildings. The result is that the city of Toronto have to pay

for the property that is occupied by the Parliament Buildings. Now, that law was not in existence at the time the buildings were put here, but the Parliament Buildings get the benefit of that, and why should not they pay? It strikes me that there is absolutely no reason in the world why they should not pay for these other pavements where property has been diverted from its present use and is simply held as a speculation or where there are institutions that are absolutely of no advantage. I cannot see, for instance, what advantage the asylum is to the City of Toronto, or what advantage is the Central Prison or the Mercer Reformatory. To my mind they are a detriment to the City, and I think they certainly should pay.

Mr. WILKIE: The public is, I think, very often led astray by the information afforded regarding the amount of exemptions. When that question is asked you dump everything in, including city property itself, and people get an exaggerated idea of the amount of exemptions. Now that ought not to be done. When exemptions are spoken of they ought only to be the exemptions in connection with property that is not owned by the city, and other property such as the Dominion property that the Government cannot tax. The actual exemptions are really only the religious corporations and similar property.

Mr. FLEMING: Seminaries of learning, etc.

Mr. WILKIE: I think the people are frequently led astray on that subject by the enormous amount that appears, and it is made to appear a more serious subject than it really is.

Mr. FLEMING: The assessment department of the City of Toronto is now separating every class of assessment. It has done that last year and is doing that this year. We are showing what every denomination has, whether it is land or buildings, we are showing what different schools are exempt, all the seminaries of learning, and everything under a different heading. I think Mr. Fullerton has put that in, and that information will be given to the public exactly as it has been given to you; so that while what you stated is the case, and there has been reason for complaint, I don't think there will be that in the future as far as Toronto is concerned.

Mr. HALL (Assessment Commissioner, Hamilton): We have done the same thing in Hamilton with reference to that.

The CHAIRMAN: Has any formal application been made by Toronto to the government on this subject of government property?

Mr. FLEMING: Yes, sir; a deputation waited a short time ago upon the Hon. the Minister of Public Works, the Hon. Mr. Latchford, and he has it now under his consideration, at least that is the information that I received. That is a matter of some months ago. I might say that I appeared before the Honourable the Premier possibly a year ago, in reference to that matter, and I know that he was impressed with the case that was placed before him. That is sufficient to say. A short time afterwards he resigned the premiership, and there was nothing done.

The CHAIRMAN: The late Premier?

Mr. FLEMING: The late Premier. We are feeling it very seriously in Toronto because there are so many applications come up where people ask for an improved street at their door and we have to go on and do it, and the Government does not pay for it. We think it is an injustice.

The CHAIRMAN: Have you applied to the Dominion Government at any time for an allowance for local improvement—Postoffice or Custom House or Inland Revenue office.

Mr. FLEMING: No sir, not that I know of. Yes, we have on the corner of Yonge and Front streets. I think it was favourably received. I will be glad to let you know that, but I may say this, that any property the Dominion Government has in Toronto is insignificant compared with the local Government.

The CHAIRMAN: There are those three.

Mr. FLEMING: Yes, but they are very small. The Postoffice amounts to nothing—150 feet would be the outside, or 200 feet.

The CHAIRMAN: Two streets?

Mr. FLEMING: Perhaps 300 feet for the Custom house and 150 feet for the other.

The CHAIRMAN: Inland Revenue?

Mr. FLEMING: That is very small—not worth talking about. My recollection is that the Dominion Government are paying. However, I will get that information. (*a*)

(*a*) See *infra*, p. 310, and No. 22 in Appendix A.

The CHAIRMAN: The Dominion Government have lately made a very considerable contribution to the funds in Ottawa.

Mr. PRATT: The city formerly got $15,000 for water, but $45,000 has been added to that $15,000; it is an annual appropriation.

Mr. WILKIE: I am afraid if we press the Dominion Government they will be pressed all over the Dominion of Canada.

Mr. JUSTICE MACMAHON: The lunatic asylum; is that within the City of Hamilton?

Mr. HALL: No; it is just outside.

The CHAIRMAN: So far as local improvements are concerned the claim seems to be eminently just. The injury is to the neighbouring owners as well as to the city.

Mr. HALL: It would not affect us to any great extent. Our improvements are paid out of the general fund.

Mr. WILKIE: But you are in the same box if the Government is not asked to contribute to the general funds.

Mr. FLEMING: But they don't have to put on first-class roads.

Mr. MACPHERSON: We have first-class roads all over Hamilton.

The CHAIRMAN: We are obliged to you, Mr. Fleming, for this statement you have made this morning. It is very important.

The Commission adjourned at 11.30 till 10.30 Monday morning, November 26th.

TWELFTH DAY, MONDAY, NOVEMBER 26, 1900.

The Commission met at 10 a.m. Present:—All the Commissioners.

A communication from Mr. R. Kimber Johns was laid before the Commission.

The CHAIRMAN: We shall now proceed with the subject for to-day—Municipal Officers and their Duties, etc. Has the Municipal Association anything to say on that subject?

Mr. F. MACKELCAN, Q.C.: I will leave this subject to the officers who have been in the habit of dealing with the taking of the assessment, and will only mention two or three points that I consider should be covered by the statute, which at the present are in a state of uncertainty. One of these points is the date at which the personal property assessable against anyone is to be taxed. The assessor goes around perhaps in the early summer and assesses the real and personal property; buildings are in the course of erection or buildings are standing. The roll is closed on the 1st of October. Between the time that the assessor has visited the property and the time the roll is closed buildings may be erected and be actually occupied, or buildings may have been burned down and be no longer there. The assessment in cities is the assessment on which the taxation for the next succeeding year is to be based, and therefore it is important that it should state the value and also the ownership of the property up to the latest possible date. Property may be transferred after the time that the assessor goes round and obtains the name of the owner and occupier, or the tenant may have changed, and when the matter comes before the Court of Revision and before the County Judge there has been great difference of opinion as to what date should be fixed upon as the date at which the condition of things should govern the assessment. It is obvious with regard to real property that persons who have entirely parted with property or who may have nothing to do with it may be called upon next year to pay taxes on property in which they have neither interest nor occupation. It also affects the distribution of the school tax, whether they shall go to the separate school or to the public school. It seems to me that any changes that are made after the taking of the original assessment should be made so as to make the assessment as nearly as possible in accordance with the rights of the parties and the condition of things on the first of October, when the rolls are closed in the city. The same would apply to estimates in every municipality as to the dates when the rolls are closed.

The CHAIRMAN: You suggest the 1st of October?

Mr. MACKELCAN: That is the way it is in cities, it is in our city at any rate, and that is the date fixed in assessment, and where they take the assesment in one year for the taxes of the succeeding year.

The CHAIRMAN: Does that apply to both real and personal estate in cities?

Mr. MACKELCAN: Yes. I was going to suggest that some provision ought to be made whereby the roll could be corrected up to the 1st of October so as to represent the actual condition of things both as to ownership and occupation of the buildings on the property at that date.

The CHAIRMAN: How would you get over the difficulty when a man parts with his property after the 1st of October?

Mr. MACKELCAN: He knows he would then be on the roll and liable to assessment for the following year.

The CHAIRMAN: Is there any sort of justice in that? He has paid his taxes for the present year, he is selling out and going away; must he pay taxes for the next year too?

Mr. MACKELCAN: He knows he is on the roll and he is assessed.

The CHAIRMAN: How does that concern him?

Mr. MACKELCAN: There might be the right; I don't see why the right should not exist to make a change up to the time the rolls are finally closed on the 1st of December.

The CHAIRMAN: He calls a clearing sale on the 15th October, he sells off all his stock, he has got to pay taxes on all that next year; is there any justice in that?

Mr. MACKELCAN: We will say he begins business in a place in the year 1900, he begins on the 1st of January, he does business in the municipality for the whole year, he pays no taxes because he was not on the assessment roll the whole of the preceding year; he begins to pay taxes only in the second year.

The CHAIRMAN: That is one case; how about the man that has been there for twenty years? He has got to pay twenty-one years' taxes.

Mr. MACKELCAN: Well the first year has been blank, you may say.

The CHAIRMAN: No, it was not the law twenty-one years ago.

Mr. MACKELCAN: Well, possibly so; but we cannot work it out in any other way. The assessment roll is final on the 15th December and the rates and liabilities of all parties are fixed by that roll.

The CHAIRMAN: A wholesale man with a stock of $100,000 has to pay two years' taxes for one year's business.

Mr. MACKELCAN: Well, on the other hand if he moves to another municipality he pays no taxes in that municipality the first year, because he is not assessed there; he does not begin to pay there till the second year, and if he moves from one municipality to another—

The CHAIRMAN: He moves to another municipality with a different system, and he is caught again.

Mr. MACKELCAN: That is the system in all the cities here, that the taxing of a year is levied on the assessment made during the preceding year. Of course all the parties liable to assessment are down in that roll, and they are liable to be taxed in accordance with what is upon that roll. It postpones the new payment of taxes till the second year that a man is in business in the place if he begins in a new city, and if he moves away then he does not begin to pay in the other city till the following year, and in the meantime he is liable for that year for the advantages that he has derived during the year past which have not been paid for. In the same way with income; a man is assessed on his income for the last preceding year, and then he is not taxed upon that until the next year.

The CHAIRMAN: The income of the past year is the measure of his assessment; it is not the assessment itself; what he is assessed for is the income of the current year, the year in which he pays, but for the purpose of valuing it his income for the preceding year is taken for a measure.

Mr. MACKELCAN: Well, of course that cannot apply to real estate.

The CHAIRMAN: So that with a merchant, the taxes that he pays in 1900 are the taxes of 1900, not the taxes of 1899.

Mr. MACKELCAN: Yes, but they are imposed according to his assessment in the preceding year, and if his circumstances have entirely changed, if he has gone out of busi-

ness, for instance the following year, suppose he lives in the municipality, he has sold out and gone out of business, he is not liable the current year upon what he is assessed the preceding year. It is a convenient way no doubt of knowing for certain at the commencement of the year when the assessments have to be made and the rates struck, as to what the extent of the assessment roll is upon which the rate has to be struck. It is *nun pro tunc* as it were the assessment and works out in the end, I suppose, on the general average.

The CHAIRMAN: Do you know why a change was made, making the assessment this year for next year?

Mr. MACKELCAN: For the reason that in city municipalities they have to make their assessments and settle their rates early in the year. The Municipal Act contemplates that no money will be expended for municipal purposes except what has been provided in the estimates, so that the estimates have to be made as early as possible in the year, and when these estimates are made then the rate of taxation is struck.

The CHAIRMAN: The rate is not struck till the current year, is it?

Mr. MACKELCAN: No, but it can in the beginning of next year.

The CHAIRMAN: The assessment is made this year and the rate is struck as soon as the estimates are made?

Mr. MACKELCAN: No, but you will understand the assessment roll is finally revised on the 15th December, and that assessment roll fixes the liability of the persons on it for the taxes of the succeeding year.

The CHAIRMAN: But not the quantum?

Mr. MACKELCAN: Not the quantum. Then under the Municipal Act it is the duty of the Council to make estimates of all the detailed expenditure that will be required during the year for which the Council is elected. Those estimates are made as early as possible every year, and according to the strict letter of the law no expenditure is justifiable unless it is provided for in the estimates.

The CHAIRMAN: How is it in the country?

Mr. MACKELCAN: Well, they assess for the current year in the country. They assess in the spring and they levy their taxes in the fall. They are payable by the middle of December.

The CHAIRMAN: But the day on which the value is supposed to be fixed?

Mr. MACKELCAN: Oh, there is no day set.

The CHAIRMAN: The assessor goes around and he fixes the value the day he happens to be at your house or at my house?

Mr. MACKELCAN: Yes; however, it makes very little difference in the country, because they value the land and nothing else.

The CHAIRMAN: If there is income it may be assessed as to any particular day; but a man's house burns down after the assessor has left—but then houses are exempt, farm buildings?

Mr. MACKELCAN: No, but they simply assess the value of the farm at so much an acre; they do not even assess the farm buildings in the country. I don't know why. They may.

The CHAIRMAN: We don't want to know the practice. What is the law?

Mr. MACKELCAN: The law is that the buildings and real estate are assessed at its value.

The CHAIRMAN: Both live and dead stock of farmers are exempt?

Mr. MACKELCAN: Yes.

The CHAIRMAN: I thought the buildings would also be exempt.

Mr. MACKELCAN: No, they are liable to taxation, are estimated in valuing the farm.

The CHAIRMAN: If a man's house and barn is burned down immediately after the assessor goes away he is in for it?

Mr. MACKELCAN: Yes, he has to pay taxes on the valuation.

THE CHAIRMAN: If the assessor didn't come till the next day he would be free?

Mr. MACKELCAN: It might be so. However, in those cases, if the fire happens before the Court of Revision sits there is an appeal, and the Court of Revision are asked to strike off the value of property that has been destroyed. I think that is the case.

The CHAIRMAN: Have they power to relieve such a man?

Mr. MacKelcan: Well, they have power to do this—at least, that is the way the law has been administered——

The Chairman: I am not speaking of its administration; I am speaking of the state of the law.

Mr. MacKelcan: Well, according to the interpretation put upon the law by our Court of Revision a man has a right to give——

The Chairman: There is power in the cities, at all events, to relieve in case of vacancies, want of tenants; I suppose that would be equally applicable to the case of a building that is burned down.

Mr. MacKelcan: A man has a right to appeal up to the 15th October. Well, if his buildings should be burned down at any time before the 1st October, and he thought his assessments should be reduced accordingly, he could appeal to the Court of Revision, and if it was understood that the value that is to govern the assessment is the value as it is on the 1st October, then the Court of Revision would be justified in expunging from the roll so much value as is represented by the buildings that have been destroyed. Of course the reason, as I have explained, is this: We will suppose he has begun business there five years before. The first year he was in business he paid no tax, because he would be assessed in that year for the following year, and there would be no local assessment upon him.

The Chairman: That is, if he began after the first of October?

Mr. MacKelcan: If he began in October.

The Chairman: If he began in September he would be assessed?

Mr MacKelcan: Yes, in all probability, although if the assessor made his returns in that ward early in the year he might not go back.

The Chairman: It would be his duty

Mr. MacKelcan: I think the assessor ought to obtain as nearly as he can the state of facts of the ownership of the property up to date of the return of the roll. The only difficulty is this, that long before the day of the return of the roll notice is given to the parties assessed of the names of the parties assessed for the various portions of real estate.

The Chairman: You give them an opportunity of appealing?

Mr. MacKelcan: Yes, and of course the delivery of these notices necessarily occupies a great number of weeks, and it cannot be postponed till the 1st of October, the notices must all be delivered before that, and parties for their own protection, if there has been a change, appeal to the Court of Revision and have the change made on the assessment rolls. When a man sells a piece of property or if the building is burned down, if he is watchful of his own interest he should apply to have the change made; but what I wanted to point out was that there was a difference of opinion amongst the members of the tribunals before whom this question came as to what is the date at which the assessment is to be reckoned—whether it is the date at which the assessor visits the property and puts it down in his blotter, or is it the date at which the person is served, or is it the date when the roll is returned? It is very important what date is to be regarded as fixing the amount of liability for assessment and the amount and value of property to be assessed.

Mr. Justice MacMahon: I should think there should be no difficulty about that. If there is no appeal the assessment is satisfactory.

Mr. MacKelcan: But it is a question when the appeal is made.

Mr. Justice MacMahon: That is the appeal from the Court of Revision to the County Judge?

Mr. MacKelcan: No, the appeal from the assessment.

Mr. Justice MacMahon: As soon as the assessment is confirmed or the amount reduced or added the assessment dates from that date.

Mr. MacKelcan: A notice of assessment is given to a man. Now when he gets that notice he has all the property that he is assessed for, but between that date and the 1st of October he has parted with it. Now should a change which takes place between the date of the service of the notice of assessment or the actual visit of the assessor and the entry of the amount in his book and the 1st of October be recognized by the Court of Revision and the roll amended so as to conform to the state of facts on the 1st of October when the roll is handed in to the clerk?

Mr. JUSTICE MACMAHON : Take another case. Take the case of a man who is in the County of York or in the City of Toronto Before the 1st October he removes everything he possesses into the County of Peel He is assessable here for that. He cannot be assessed in Peel because the time for assessing is passed, and as soon as the 1st of October arrives the appeal is confirmed unless he can show that he is entitled to a reduction, and he is not entitled to a reduction by reason of his having removed the property from the municipality.

Mr. MACKELCAN : Well that is just the point I would like to have settled.

Mr. JUSTICE MACMAHON : That is something that might be considered.

Mr. MACKELCAN : We have often this case : a man has a large amount of money and he is assessed for it—

The CHAIRMAN : One question I asked was whether if a man moved away altogether before 1900, is he to be assessed for 1900 if he has sold out everything he has got ?

Mr. MACKELCAN : He is assessed and he is personally liable, but you may not be able to collect it.

The CHAIRMAN : Assume he is able to pay, is it just that he should pay two years' taxes for one year's business ?

Mr. WILKIE : In income that is the law. You have no income this year and you are assessed on last year's income.

Mr. JUSTICE MACMAHON : I think he would be liable.

The CHAIRMAN : There is no doubt he would be liable. The question is whether it is just, whether we should leave the question in that position.

Mr. FORMAN : He has an equivalent. If he sells the goods he has the cash and notes.

The CHAIRMAN : We are not speaking of cash and notes, we are speaking of goods. Suppose he has paid his debts with it.

Mr. MACKELCAN : If the goods are assessed and he sells those goods he has got the equivalent.

The CHAIRMAN : And he pays his debts with what he gets.

Mr. FORMAN : Then he is only assessable on what he owns in his own right.

Mr. JUSTICE MACMAHON : As far as the rural population is concerned it makes no difference about the personal property at all. Almost all that he has is exempt. (Subsecs. (16) and (17) of sec 7).

Mr. CASWELL : There is an amendment passed last session taking out his implements and hay. (62 V., c. 27, s. 1).

Mr. MACKELCAN : Suppose we begin from the present date, the view that Mr. Justice MacMahon has enunciated would be the fair one, that is to say, a man does not pay any taxes the first year he begins business in any city municipality, at least he does not pay any taxes on that business.

The CHAIRMAN : That is, if he began since the change in the law ?

Mr. MACKELCAN : Yes, and that change was made in 1876 ; and according to the statistics we have had given us here, 95 per cent. of the men who began business there are now insolvent and out of business, so there would not be many of them left to suffer.

The CHAIRMAN : They have been taxed out of existence ?

Mr. MACKELCAN : No, it appears from the evidence we have here that they have paid very little taxes, for they have not been assessed for anything like the stock they carried but only on a small residue of it, but nevertheless, I suppose through some fault of their own or some fault in the condition of the country—

The CHAIRMAN : Let us pass the joke.

Mr. MACKELCAN : Then they begin business in a city municipality. They don't pay any taxes that year. They are assessed for the taxes they will have to pay in the year following. Then if they left the municipality in the year following, and consequently it was thought that they should not pay the taxes in the year that they were not there, then they would not pay any taxes for two years. If a man was only in business for two years he would not pay any taxes at all, for he would not pay any taxes the first year, and the second year he would be out of business.

The CHAIRMAN : But a man who begins in September and ends in October the following year must pay the two years taxes for thirteen months' business.

Mr. MACKELCAN : He might. Of course if a man buys property in the middle of the year he has to pay taxes on it, the whole of the succeeding year at any rate.

Mr. Justice MacMahon: Supposing a man is taxed for stock in September, he sells it out in December, the property is liable to taxation, he can only protect himself by making his purchaser liable for the taxes.

Mr. MacKelcan: Certainly.

The Chairman: No, but he sells his stock out in detail, what they call a clearing sale; what then?

Mr. Wilkie: The man is liable for the taxes, but the property is assessed. It is the property that should pay the taxes and the man is liable for it.

Mr. Justice MacMahon: The property should pay the taxes, but if the property is not there to meet it he is personally liable for the taxes.

Mr. Wilkie: But the property does not pay the taxes.

Mr. MacKelcan: If a man begins business in a city municipality on the 1st of October he does not pay any taxes for twenty-three months. He is not assessed for that year; he is not assessed till the following year. Say he begins the business on the 1st of October, 1900; he is not assessed till 1901, and the first instalment of those taxes is due on the 1st September. He carries on business in the municipality for twenty-three months without paying any taxes.

The Chairman: Is that just?

Mr. MacKelcan: That is the law as it is now.

The Chairman: Do you propose that it should remain so?

Mr. MacKelcan: I only propose that there should be some date fixed, and of course a man must make his own provisions accordingly. It seems to me the man can protect himself. Of course if he goes out of business and sells out, the chances are the taxes are never collected, because if a man is not worth anything you cannot levy on anything, if he has no personal property you cannot collect the taxes and it has to be written off, but if he sells out his business he can arrange with his successor that he shall pay the taxes on the succeeding year.

Mr. Justice MacMahon: The goods are liable no matter in whose hands they are.

Mr. MacKelcan: If a man sells his land he expects his purchaser to pay the taxes for the succeeding year although they will be in the collector's roll in the name of the vendor and not the purchaser, but that of course is always provided for by the bargain between the parties.

Mr. Wilkie: If a man sells out, and is liable for the two years, in selling out he should provide that the taxes should be paid by the purchaser. He has got that open to him. They in practice know that they are buying free of taxation.

The Chairman: When we go to a shop and buy something we don't expect to pay taxes on it. There is no difficulty about land, Mr. MacKelcan. Either the vendor or the purchaser must pay the taxes.

Mr. MacKelcan: Then the reason why the cities adopt the plan which is permissible under the Assessment Act, of making their assessment in the current year for the taxes of the following year, is that the council when it comes in power at the beginning of the following year may know what is the financial basis on which the expenditure for the year is to stand; they know what the assessment is then, and what rate will be required to be struck in order to raise a certain amount of money, and they make their estimates accordingly. They cut down, they abstain from making certain improvements or undertaking certain expenditures if they find that they will not be able upon the roll as revised to levy a sufficient amount in justice to the inhabitants to meet that expenditure; and so it is that it appears to be the only practical way of managing municipal affairs. If they did not know till the middle of the year what their financial basis was to be they could not make their estimates and they could not strike their rate.

The Chairman: It would be easy to give power to relieve a man who is out of business and who has parted with his property, that is goods, etc., by the end of the year, to relieve him after the year begins—there would not be many cases of that sort—and to tax, even after the time, a man who has come into the municipality afterwards.

Mr. MacKelcan: He might be relieved if he would pay the taxes for the year in which he was not assessed and did not pay anything, had all the benefits of municipal expenditure, but you see it is as broad as it is long, he pays later instead of paying at the beginning.

The CHAIRMAN : He has paid his taxes for this year and the question is what he is to pay for next year.

Mr. MACKELCAN : I am assuming that he began business in 1899, and that for the first year he was in business in that municipality he paid no taxes to the municipality, that practically his taxes are postponed a year ; instead of paying in the current year he pays in the following year. That is about the result ; and so it works fairly enough in the end ; but the point I want to suggest to the Commission is that some date should be settled as the date at which the amount of ownership of the property can be computed or ascertained in case the matter goes to the Court of Revision.

The CHAIRMAN : You are speaking now of personal property, of course ?

Mr. MACKELCAN : Both personal property and real estate. For instance, the ownership of real estate——

The CHAIRMAN : There is no difficulty about the real estate, because either the vendor or purchaser must pay the taxes on the real estate.

Mr. MACKELCAN : Yes, but I was mentioning the two points in regard to real estate ; that is, the putting up of new buildings or destruction of existing buildings by the first of October, or the change of ownership or tenancy prior to that date, whether that is to be regarded as the date.

The CHAIRMAN : What do you suggest ?

Mr. MACKELCAN : Well, I can only say that the late Judge Senkler, of St. Catharines, who was a very able Judge, held in some appeals before him that the date to be looked to was the date when the assessor visited the premises. The state of things at that time was a state of things that governed a final adjudication upon the assessment. Judge Senkler has held that the condition of things on the 1st of October, when the roll is returned, is what governs.

The CHAIRMAN : But he is speaking of the existing law ; the question is what the law ought to be ; what do you suggest about that ?

Mr. MACKELCAN : I think the date when the roll is returned should, in case of notice or appeal, be the date that fixes the relative rights and liabilities of the parties.

The CHAIRMAN : The return of the assessment roll ?

Mr. MACKELCAN : The 1st of October, yes.

The CHAIRMAN : That every man's position relative to the assessment should be fixed on that day, whether for realty or personalty or income or anything else ?

Mr. MACKELCAN ? Yes ; he has had his notice before.

The CHAIRMAN : Would that do for the country ?

Mr. MACKELCAN : Well, I am speaking only for town and city municipalities, but I think the same rule would apply to the country, too, for this reason : In any case a man has received his notice of assessment ; he knows what he is held liable for. If any change takes place prior to the date of the return of the roll he then has the option of appealing.

Mr. MACPHERSON : How soon does he know that ?

Mr. MACKELCAN : The notice is served upon him before the roll is returned.

Mr. MACPHERSON : How much before the 1st of October ?

Mr. MACKELCAN : Well, it just depends. The notices are served during the course of months, because there are a great number to serve, and they begin serving the notices as soon as they have the rolls.

Mr. MACPHERSON : Is there ample time for appeal ?

Mr. MACKELCAN : Everyone has the privilege of giving notice of appeal up to the 15th October, and he may have been served with his notice of assessment two months before that, but it must be served at any rate before the 1st of October.

Mr. MACPHERSON : Then he has a fortnight, so that if the condition of things has changed since he was served with his assessment notice, then he has an opportunity to come before the Court of Revision and ask to have the roll altered accordingly, but the question then may come before the Court of Revision as to what date is fixed. What is the time now limited for appeal ?

Mr. MACKELCAN : Up till the 15th October to give his notice.

Mr. WILKIE : And the municipality the same ? Suppose there is immense improvement in the affairs, in the increase of personal property, of some person—how would the municipality remedy their assessment ?

Mr. MacKelcan: The assessor or any ratepayer has the right to appeal.

Mr. Wilkie: What would they do with a man who has been assessed for a considerable sum before the 1st of October and got rid of it before the 1st of October?

Mr. MacKelcan: That has been frequently done.

Mr. Wilkie: The amount is the amount at the time of valuation, I suppose?

Mr. MacKelcan: Some persons have received large sums of money to the knowledge of the assessor. For instance, a will has been probated and a large amount of money has come into the hands of parties, and becomes publicly known by the publication of the probate of the will in the newspapers, so that the assessor puts it down in the assessment roll. The parties come forward and say, "Well, this was all invested before the 1st of October, therefore there was no fund there to assess" But other parties may have found no investment for it and may have it on hand still, and so be liable for assessment. The rule we have followed is, if it has not been assessed before the 1st of October it is struck off the roll as not being money then on that date liable to assessment, because, although it might have been at the time the assessor made up his roll, and sent in his notice, yet that it ceased to be in the possession of the person assessed before the 1st of October. We have recognized that as a rule in our municipality, but there is a difference of opinion between the Judges, and it would be well to have the matter settled, and for this reason, too: Assuming that merchants' stocks and manufacturers' stocks are assessed, whether they are taxed or assessed at their full value or 50 or 25 per cent. of their full value, as the case may be, a man might have a very large stock of goods on the 1st of September, he might have sold them all out by the 1st of October, and he might come before the Court of Revision and say that he had nothing. I think that if merchants' stocks are assessed, as it seems they should be, that there should be two elements taken into consideration: First, the actual amount of stock at the time of the assessment or the 1st of October, and the average amount of stock carried by that person during the year then last past. That would be a fair amount at which stock of that description should be assessed—the average amount held during the year then last past Take the actual amount, and if that is more or less than the average, raise it or lower it so as to correspond as nearly as possible to the average amount carried during the year.

Mr. MacPherson: It would be very difficult to arrive at that.

Mr. MacKelcan: Not so difficult, it seems to me. Well, you can take the actual amount and if the man objects that that is an exceptionally large sum, or the assessor takes it as an exceptionally small sum, then you can take the average and have the matter discussed. I think the average would be a fair amount. You take the man's income during the whole year, that is, he may have been making $100 a month during a portion of the year and $200 a month during the other portion of the year.

Mr. MacPherson: Suppose he makes nothing during the whole year, how are you going to fix it?

Mr MacKelcan: Somebody will have to feed him.

The Chairman: If any man's property should change between the time of his receiving the assessment and the sittings of the Court of Revision he should appeal to get it adjusted as it was on the 1st of October; that is your suggestion.

Mr. MacKelcan: Yes, the date fixed for the return of the roll.

Mr. Justice MacMahon: If it is returned on the 1st day of October that is the day; if it is enlarged that is the date of enlargement.

Mr. MacKelcan: Yes, the date of return of the roll, I would say, so as to get as near as possible to the proper persons and the right valuation for striking the tax rate when it afterwards comes to be struck. I would also call attention to some words in section 50 of the Assessment Act. Section 47 makes it the duty of every person assessable to give information to the assessor Section 48 imposes a similar duty on the corporations. Then section 50 refers to the notices mentioned in the three preceding sections. If it had said "in any of the three next preceding sections" it would be more correct, because there is a different notice mentioned in the three different sections, and it has been considered that it only applied to the return to be made or the written statement to be given by corporations, not to those mentioned in section 47, and it would be more clear if that were made to refer to the notices mentioned in any one of these sections.

Mr. Thomas Caswell (City Solicitor, Toronto): I want to hand in a statement

showing that in this year 1900, for the year 1901 there were 67,706 separate and distinct assessments for the city of Toronto, so that if any of the officers did make a mistake I do not think it would be an extraordinary thing. (a) Now if you will notice under section 13 the duties of the assessors are defined. The assessors under that section have to put down the names of the residents or non-residents, and they have to make inquiries covering thirty-four columns on the roll. Besides that you notice that they have to make inquiries regarding separate school children, and about farmers' sons and a whole lot about registration under the Manhood Franchise Act, and other duties covered by sections 13 to 17 inclusive, and the assessor has to do this in a very short period of time, and the courts hold that everything is to be strictly done. It is wonderful that our assessments in this Province have been as carefully prepared and have stood the test of the courts as well as they have during the last twenty-five or thirty years.

The CHAIRMAN: That seems to show it is not hard to do it.

Mr. MACPHERSON: When do they commence making the assessment in Toronto?

Mr. CASWELL: Just as soon as the snow is off the ground.

Mr. MACPHERSON: How long have they?

Mr. CASWELL: Till the 1st of October.

Mr. MACPHERSON: They have nearly a year.

Mr. CASWELL: I understand our men cannot do it in the winter time—standing on the street and measuring the property and having books in their hands and heavy clothes on; it is almost impossible in the winter season for a man to do outdoor work. They don't start till the 5th of April, so it is practically done in six months.

Mr. JUSTICE MACMAHON: How many assessors have you here?

Mr. CASWELL: Seven.

Mr. WILKIE: And their assistants?

Mr. CASWELL: Their assistants do the clerical work inside. The assessor goes with a man; the assessor has the rough book that he had the previous year and that is the basis upon which he starts, and he ascertains whether things have changed since that, and the clerk writes in another book the information that he gives him, then these are brought into the Assessment Department and copied by other clerks altogether, because these particular assessors—there are six of them say in a subdivision of a ward—those men have to go to six different parts of a ward, six different streets or localities, and having completed their book it is passed into the office and then it is copied by other clerks in large books, and then after being compared and verified in every way that they reasonably can these are sworn by the assessors, the assessor not swearing to the book he had in his hand but to the book that some person has written from his book, and this has to be done with great speed.

Mr. JUSTICE MACMAHON: Before the assessor makes that affidavit he must compare the book that has been copied in the office with the book that he prepared?

Mr. CASWELL: Yes, either compare it or satisfy himself that some person else has compared it.

Mr. FORMAN: He compares it.

Mr. CASWELL: Suppose each one of them had one-seventh of that number to look over, he has nine or ten thousand, and if he has to go over every line of that nine or ten thousand you would see it is physically impossible for him to do it besides doing the work of assessing outside.

Mr. WILKIE: I would like to ask as to the difficulties in all these inquiries; they are practically in connection with personal property—they are not in connection with real estate.

Mr. FLEMING: I do not think so.

Mr. WILKIE: Real estate will speak for itself, the same this year as next year, probably?

Mr. FLEMING: No, there are changes all the time. There are 500 changes in a month sometimes.

Mr. WILKIE: But the valuation of real estate does not vary very much?

Mr. FLEMING: Oh, quite a lot—improvement in buildings and all that sort of thing.

Mr. CASWELL: I might offer an amendment to section 47 in this that there ought

(a) See No. 20 in Appendix A.

to be a limited time for the delivery of the statement there asked for from the person assessable. There is no time stated for the delivery of that statement, and you could not possibly under section 50 have a man fined for not delivering the statement. We asked a man to give a statement of his father's business, and his father was in the old country, and we had to put down what we thought fit. Sections 51 and 52 ought to be amended so as to permit service of the notice of assessment in other ways than mentioned in the Act. The law now requires actual delivery at the place of business within the municipality. Under section 71, sub-sections 10 and 11, the clerk of the Court of Revision has power if he cannot find a man responsible to leave a notice with a grown-up person on the premises or address through the postoffice. I think sections 51 and 52 ought to give the same power.

Mr. MacPherson: Send notice by registered letter?

Mr. Caswell: It should be made something similar to section 71, sub sections 10 and 11. Then as to the question of non-residents I think the time has come when the non-resident roll will be abolished altogether, or any reference to the non-residents.

The Chairman: Throughout the whole Province?

Mr. Caswell: Throughout the whole Province. I am not so particular, of course, as to other places. I can understand that it was a fair thing to have a non-resident roll when the country was very poorly settled and they collected the taxes from those, and put the non-residents in a separate roll.

Mr. Justice MacMahon: You say that the residents and non-residents should go into one roll?

Mr. Caswell: Yes.

Mr. Justice MacMahon: And the necessity for a non-resident roll should be abolished altogether?

Mr. Caswell: Exactly.

Mr. Justice MacMahon: That is, the notices can be served from the united roll as if it was a separate roll?

Mr. Caswell: Yes, especially if you give me that amendment I have asked for, we can mail the notices and we will find out where they are. I will tell you why I want this amendment: it would omit the assessing and thus waive in the schedule to the Act the notice that has to be given. You start on a street such as King street, east end. Now you have to account for all the men on that street from one end of the ward to the other. Suppose there is a section in it that belongs to a non resident and you omit that from your roll. The next lot is not accounted for. Before that I could add up the rolls to find out definitely where each part starts, but you cannot if you omit from your roll any of this land at all, and it is hard enough to keep the roll accurate now, but it is much more difficult if you have a non-resident roll; and I may frankly tell you in the city of Toronto they never keep a non-resident roll because they said it was impossible to carry out and there were so few cases that were non-residents.

The Chairman: What is the result of that?

Mr. Caswell: Well, we have always run the risk of whether the courts would say that our assessment was bad.

The Chairman: Did you get your taxes?

Mr. Caswell: I think we fairly got our taxes. The officers are taking the law into their own hands.

The Chairman: In the case of attempting to sell the land for taxes it would all be wrong.

Mr. Caswell: Well, we are afraid of it.

Mr. Justice MacMahon: It has been held that where a sale takes place without the land being put on the non resident roll and returned as required by one of the sections, that the sale was invalid.

Mr. Caswell: I don't know whether it has gone that far.

Mr. Justice MacMahon: In that case of Caston vs. Toronto, didn't he say as much?

Mr. Caswell: He practically said we didn't have to take the same machinery for selling non-resident, that we didn't have to put it on the non-resident roll, and you see now we have to ascertain the land as on the non-resident roll, we have to ascertain whether it is occupied. What we do in Toronto is to ascertain if a piece of land that is

liable to be sold for taxes has become occupied or built upon or not, only he practically says we don't need to make those inquiries about land that is on the resident roll, because that we should have collected by distress. (Reads sections 21 and 22 of the Act.) That shows that you have got to put it upon the assessment roll Now, isn't that conflictory to section 13, sub-sections, (*a*), (*b*)? Now, there is no provision in that section 13—

Mr. JUSTICE MACMAHON: It looks as if the columns of the assessment roll might be cut down.

Mr. CASWELL: I should think so, and I think that section 13 is not consistent with the non-resident roll.

The CHAIRMAN: You say 22 and 13 are in conflict with section 13, (*1a*) and (*1b*)?

Mr. CASWELL: Yes.

The CHAIRMAN: One requiring the non-resident land to be put in one roll and the other requiring it to be in the other roll.

Mr. CASWELL: Thirteen provides only for the non-resident; then when you come to sections 22 and 23 it requires that the roll shall account for the land.

The CHAIRMAN: I don't quite apprehend your criticism of section 22.

Mr. CASWELL: You have to take sections 21 and 22 together. The latter part of section 22 perhaps makes it clearer.

The CHAIRMAN: I don't see any conflict between 21 and 22.

Mr. CASWELL. No, it is between 22 and 13 The assessment roll provides only for the resident owner and the person who has given notice to be put upon the roll. Now, section 22 provides for another class (Reads end of clause.) That practically implies that you must on your assessment roll put down this property with the words "Owner unknown," therefore you put it on the resident roll, because you must account for the property.

Mr. JUSTICE MACMAHON: Under section 13, that is where the non-resident gives a notice that he is the owner of the property.

Mr. CASWELL: That is all that section 13 provides for.

Mr. JUSTICE MACMAHON: Then sub-section 22, the last of that section, reads, "It shall not be necessary," etc.

Mr. CASWELL: That would be the non-resident if you knew, so that practically his name gets on the roll whether he gives a notice or not.

Mr. JUSTICE MACMAHON: As long as he is reputed to be the owner it is sufficient?

Mr. CASWELL: Yes.

Mr. JUSTICE MACMAHON: Although John Brown had sold the property five years before it would appear on the assessment roll as John Brown being the reputed owner, and you would go on and assess that property year after year as being his?

Mr. WILKIE: Could he vote?

Mr. CASWELL: He could vote if nobody questioned him. Now if we search in the Registry Office we can find the owner of every lot; there is no trouble about it. The only thing is, have we a right to put him on if he does not give notice? We have to pay 25 cents for each search. We have now got an arrangement for paying five cents.

The CHAIRMAN: What is the section which provides for the non-resident roll?

Mr. CASWELL: Sec. 34.

The CHAIRMAN: It is the same roll, only a different part of the roll. If that is so, there is no inconsistency in what is required in sec. 22.

Mr. CASWELL: They are separate from the other assessments, that is the great difficulty.

The CHAIRMAN: It is the same roll.

Mr. CASWELL: The same book, I suppose.

The CHAIRMAN: The Act does not speak of a book.

Mr. HALL: (Assessment Commissioner, Hamilton): As far as Hamilton is concerned it is entered in the roll the same as any other property, then we carry forward all non-resident lands in a separate entry and then make out the notice and send to the city treasurer all non-resident land.

Mr. CASWELL: I come to sec. 142 about the mode of recovering the taxes by action. I ask that that section be amended so as to provide that we can sue for any taxes, in other words that we shall have the two remedies, distress or action, and not as it is now, action only if we have failed to recover by distress. I do this because I think the municipalities

should be in certainly as good a position as the landlord is now. A landlord renting his land to a tenant, if he fails to get his rent, can either distrain or sue.

The CHAIRMAN: Has it ever been held that you cannot sue?

Mr. CASWELL: Yes, that was held in Caston vs. Toronto recently,(*a*) that we cannot sue until we have exhausted our distress.

Mr. FULLERTON: Carson vs. Veitch (*b*) inferentially goes that far.

Mr. JUSTICE MACMAHON: There is that case decided by Judge Armour too, in Trenton.

The CHAIRMAN: The Trenton case was where the tax had not been put on.

Mr. CASWELL: This is the latest, I suppose, Caston vs. Toronto, 30 S.C.R. p. 390. It says, "It fatally affects all future proceedings." A distress is such a dangerous remedy for a landlord to take, because the least irregularity may bring him into an action.

The CHAIRMAN: You should be able to sue in doubtful cases at all events.

Mr. CASWELL: Yes, but we have so many cases where the wife claims chattels; are we going to take the risk of proving the ownership? Sec. 135 is a little doubtful in many respects; that is the section that gives the remedy by distress. Subsec. 1 of sec. 135 has been changed recently by 62 Victoria ch. 27, sec. 10, so that now as to taxes on vacant lands we cannot distrain on chattels except such chattels as may be upon such vacant lands. Then by subsec. 2 it is only the interest in the goods of the person assessed; for instance, if they are under lien to a sewing machine company we can only assess the man's interest in them. Then in subsec. 4—that is perhaps the most difficult one of the lot to construe—we can assess upon the goods and chattels upon the premises where title is claimed in any way as follows:—the first is by virtue of an execution. It is not fair that the municipality should come in and take these away from a man who has paid his money. If it means while the property is in the hands of the sheriff, that surely is wrong, because it means a fight with the sheriff for the ownership of the chattels, and the view has always been that we could not dispute about goods in the hands of the law. Would it be safe for us to put a baliff in a man's house to seize his goods that he bought under a sheriff's sale? I would not run the risk, and yet under the decision I have given you of Caston vs. Toronto it was held that if we failed to collect on the goods when we should have seized we cannot get our taxes. Surely the municipality should not be put in that position.

Mr. JUSTICE MACMAHON: These decisions cannot have reference to a case where there has been judgment and execution and the sheriff has distrained and disposed of the goods, but I supposed where a claim is made to the goods and no interpleader proceedings have been taken, then the municipality may be deprived of its right to proceed by action if they have not taken advantage of the distress.

Mr. CASWELL: That is the dangerous position we are in.

Mr. JUSTICE MACMAHON: But surely where the goods have been sold, and judgment behind it—

The CHAIRMAN: Some person claims title to these goods by virtue of an execution against the person assessed.

Mr. CASWELL: There is one of the risks we have to run in our distress. Then take the next subsec. (4*b*). In one case we seized the goods that were transferred by a chattel mortgage.

The CHAIRMAN: I think these difficulties are obvious enough to require some remedy.

Mr. CASWELL: There was a case lately decided where we could not have seized the chattels.

The CHAIRMAN: Formerly you could seize anything on the assessed premises; there was no risk there whatever, no matter to whom they belonged, and it was a plain case; so also you could seize goods belonging to the person assessed anywhere within the municipality.

Mr. CASWELL: Within the county.

The CHAIRMAN: But now there are so many exceptions that it is really perilous for the city to distrain at all?

Mr. CASWELL: Very perilous.

(*a*) 30 S.C.R. 390. (*b*) 9 Ont. 706.

The CHAIRMAN: The owner of the goods which were on the premises which were not liable to seizure might allow them to be sold and then bring his action against the city afterwards, when the right to recover the taxes any way was all gone, and a year or more recover heavy damages.

Mr. CASWELL: You see, a landlord can hardly distrain now.

The CHAIRMAN: But he always had a right to sue for his rent. You think the right of action for the taxes would be a considerable relief to the city.

Mr. CASWELL: I think so.

Mr. FLEMING: There is a better plan, and that is to not have the city bound to collect the taxes from the—

The CHAIRMAN: And if the taxes were properly laid on, how about your right to resort to the land?

Mr. CASWELL: Mr. Fleming put in a clause the other day.

Mr. CHAIRMAN: You want to have the land liable under any circumstances?

Mr. CASWELL: We want the land liable.

Mr. FULLERTON: That would only apply to land taxes, not to taxes on personal property.

Mr. MACKELCAN: The right to distrain on personal property is given by a subsection of the statute which is not in the Consolidated Statutes, which was omitted altogether from them.

Mr. CASWELL: I would ask you to omit in sec. 135 the collecting from all chattels in the county. The collector has to put himself in the position of swearing that there are no goods in the County of York out of which he can make the taxes. I think it is against our interests, but still I think it is fair.

The CHAIRMAN: You take away the right as well as the duty?

Mr. FULLERTON: It is going a long way to take away the right; it should relieve him of the necessity.

Mr. CASWELL: I don't mind him having the right if his oath is qualified by sec. 148.

The CHAIRMAN: Suppose a man living just across the line outside the city limits had plenty of chattels and owed a large bill for taxes?

Mr. CASWELL: If we have to try the issue we are not afraid, because in that case we are quite safe. What I am anxious about is the assessor's oath in sec. 148.

Mr. JUSTICE MACMAHON: A man might have a horse out in Whitchurch and the collector would not know of the existence of any such chattels, and yet if a seizure was made there would be a good deal of trouble arising from the fact that he had a horse 40 miles away from town.

Mr. CASWELL: Then if you apply that to sec. 148, unless the collector can swear that he has not by diligent enquiry discovered any chattels, he cannot get the credit, and therefore we cannot under that charge them back against the land. Sec. 148 also needs amendment on the ground that sec. 135 has been completely changed, where it says, "Goods on the premises."

The CHAIRMAN: You are looking at this matter from the Toronto point of view. How would this proposal of yours apply in the townships and counties as to distraining upon goods anywhere in the county—suppose a township assessment?

Mr. CASWELL: I don't object to words being put in there giving us the privilege of distraining in the county so long as the assessor does not have to make oath.

The CHAIRMAN: You agree with Mr. Fullerton that it is sufficient to relieve the collector from the duty, but leave the right?

Mr. CASWELL: Yes, leave the right to distrain, that is fair I think. Sec. 148 has not been changed since 135 was changed. When 148 was passed it was when the law was in such a shape that we could distrain on anything on the premises.

The CHAIRMAN: When were all these exceptions made that are now in 135?

Mr. MACKELCAN: They were made at different times.

Mr. CASWELL: But 148 was never changed. You can notice that the oath of the assessor is not consistent with the distress. Now I come to tax sales, sec. 158. I want to lay down this proposition, that I think the duties mentioned in all the sections relating to tax sales should not be imperative, in fact should not be binding upon the municipalities that make their assessment at a different time of the year from what is the ordinary time fixed, namely from the 8th February to the 15th April—that is the town-

ship time. The whole procedure of our tax sales is based upon that period of the year, and while municipalities have the power to make assessment this year for next, and between January and the 30th September, those dates about the tax sales have not been changed

The CHAIRMAN: Dates for what proceedings?

Mr CASWELL: The date for instance, when the treasurer has to make up the list of what lands are liable for sale for taxes.

The CHAIRMAN: You don't want to change the number of years that should elapse before that could be sold?

Mr CASWELL: No, not the year. We make out and furnish to the clerk of the municipality on the 1st of February a list of lands liable for sale—the clerk has to give copies to the assessor; the assessor has to ascertain whether these lands are occupied or built upon; he makes his return, and does not complete his return till the 1st of October. Now the Act provides that if he has reported that some lands have become occupied, then the clerk of the municipality has to notify the treasurer of the arrears that have been put on that land. Well, our collectors for that year have been at work for three weeks, they have been out since about June, and then how can the clerk in October put on the roll arrears to be collected during that year? The result is that in practice we really cannot put it on the roll till next year, and we cannot carry out the Act as to dates.

The CHAIRMAN: Have you drafted a clause?

Mr. CASWELL: No, I cannot say I have.

Mr. FULLERTON: We can do that as to the suggested amendments and send them in. I did not think it was perhaps wise to draft them.

Mr. CASWELL: I think there ought to be certain sections as to arrears of taxes applicable to cities and towns, and certain other sections applicable to other municipalities

The CHAIRMAN: That is so at present.

Mr. CASWELL: No, what you want to provide for is cities and towns under sec. 224. You would do it exactly the same, you keep similar dates; for instance, we have no such thing as a county treasurer. The Act provides for a local treasurer returning to the county treasurer and the county treasurer sending back the returns to the township clerk. These are not applicable, because we have only the one treasurer. It is our collector returns to our treasurer The treasurer is the same officer who sends. He is not the same treasurer whom the local municipalities have

The CHAIRMAN: Did you make any application to the Legislature when these clauses were before them in 1897, sections 225 and 226?

Mr. CASWELL: No, they passed the Act in 1897 amending. You will see they keep receipts in triplicate, because it has to go down to the county treasurer. That does not apply to the city municipalities. The suggestion is that these dates should be changed or certain provisions ought to be made applicable to cities and towns.

The CHAIRMAN: We want to know as precisely as possible what your view is, what changes you would suggest.

Mr. CASWELL: I will recast about 25 sections of the Act and send them in. Sec. 158 should be applicable to all municipalities.

Mr JUSTICE MACMAHON: You ask that a change be made so as to make it applicable to cities and towns?

Mr CASWELL: Yes. Then there is a clerical error in sec. 170; it should be 184, it has not been changed in revision. Now we come to sections 188 and 189; I think some provision ought to be made in the Act for the Crown giving a municipality notice as to what land they have an interest in. For instance, if the Crown sells lands to a purchaser and takes back a mortgage the city would find that land in the name of that purchaser. We would therefore assess it. Now if that purchaser failed to pay his mortgage at the end of five or more years that land would be foreclosed and go back to the Crown. The taxes would be all wiped out in the meantime if we did not collect them.

Mr. JUSTICE MACMAHON: The Crown never takes mortgages.

Mr. CASWELL: I understand so, from the purchasers near the Asylum there, back of the Asylum grounds. I now we had to wipe out all those arrears.

The CHAIRMAN: You could have redeemed the Crown, paid off the Crown charge and taken the land.

Mr. CASWELL: But then we were only the tax people.

The CHAIRMAN: Very good, you could sell?

Mr. CASWELL: This statute says we can only sell a locatee's interest.

The CHAIRMAN: Suppose you sold the locatee's interest and I bought it, you could pay the Crown off and take the land.

Mr. CASWELL: Yes, but some of those lands I don't think would pay that much. What I say is that the Crown ought to notify us of the interest they have, whether he is a locatee or a mortgagee, whatever he may be. When a person has bought the land he finds he can only get a locatee's interest or a mortgagor's interest.

Mr. JUSTICE MACMAHON: It would only be in cities and towns, because there is a special provision in the Free Grant district.

The CHAIRMAN: What is the practical difficulty that has arisen?

Mr. CASWELL: I can give you two classes of instances. One is where the Crown has sold a part of the asylum lands just south of King St. to several people, and those lands came back to the Crown, and we had to wipe out all those taxes.

The CHAIRMAN: Until the Crown sold them they were not assessable.

Mr. CASWELL: No.

The CHAIRMAN: Then they were sold.

Mr. CASWELL: Yes; we got notice of the sale; streets were laid out; we assessed them to the purchaser.

The CHAIRMAN: They were sold on credit?

Mr. CASWELL: Yes.

The CHAIRMAN: And you assessed the purchaser.

Mr. CASWELL: We assessed the purchaser as the owner. We don't care whether there is a mortgage on the place or not, as far as the Assessment Act is concerned; under the Act the mortgage has not to be deducted.

The CHAIRMAN: Did the Crown convey to these parties?

Mr. CASWELL: I think so.

The CHAIRMAN: Their title would be easily ascertained.

Mr. CASWELL: But we haven't the means of ascertaining except going and asking them, and it seems to me they ought to give us notice of that.

The CHAIRMAN: Why should the Crown be in a different position from another person? You find that out at the Crown Lands office by simply inquiring of those in charge.

Mr. JUSTICE MACMAHON: Was there an actual conveyance from the Crown of those lands?

Mr. FLEMING: No question about that, there was an actual sale, and those people were assessed for it, and they allowed the taxes to accumulate against the property, and there were four or five years of taxes, and the city went on to sell.

Mr. JUSTICE MACMAHON: They may have been assessed for it as owners, and have no agreement with the Crown for conveyance and sale, no absolute grant passed from the Crown at all?

The CHAIRMAN: But Mr. Caswell says there was an actual patent issued to the purchasers and a mortgage made back to the Crown.

Mr. JUSTICE MACMAHON: Then there would be no trouble at all about getting it in the Registry Office.

Mr. FULLERTON: I have a strong feeling that a grant was made, but I don't like to say it positively without refreshing my memory.

Mr. FLEMING: There is no question about it. We can find out exactly this afternoon.

The CHAIRMAN: There was no difficulty. Private individuals went into possession of this land and took possession of it. That was notice to the city that they had an assessable interest.

Mr. FULLERTON: When you say they entered on it, they only entered on it as to vacant land by making a plan which they put up in their offices for the purpose of making sales, and there was no visible entry or building for some time.

The CHAIRMAN: At all events you had sufficient notice to assess them, and you did assess them. Now what difficulty is there in finding out?

Mr. FLEMING: No difficulty at all, but when these taxes were not paid——

The CHAIRMAN: What Mr. Caswell is asking us to do is to require the Crown to give a certain notice; notice of what?

Mr. Caswell: Notice when they take a mortgage on any land; and we say the same to the University.

The Chairman: You assess the whole property against the owner?

Mr. Caswell: Yes, but we can only sell out the mortgagor's interest.

The Chairman: You did sell that?

Mr. Caswell: Yes.

The Chairman: And it is sold and purchased, and the purchaser pays off the Crown and has to pay the taxes on it.

Mr. Caswell: But if we do not know there is a mortgage on it we sell the whole land, and the purchaser comes back and says, "you have deceived us."

The Chairman: You never sell the whole land, you sell the interest of the party assessed; you sell just as much title as the man who is assessed has.

Mr. Caswell; But we have to state in our advertisement whether the land is patented or otherwise.

Mr. Justice MacMahon: In this particular case where there was a block of land attached to the Asylum ground, and the Crown sold it, you knew nothing about who was the owner of it except by repute and from the plan. In order to make the assessment and know where the streets were and the boundaries of those several lots, the assessor's duty was to go to the Registry Office and ascertain how that land was divided. He would then ascertain at the Registry Office a title. He would see the plan and he would examine the title to see how the persons were in possession.

Mr. Caswell: Then you think he would find the mortgage?

Mr. Justice MacMahon: If a grant was made he would find it in that register. It must be registered if the Crown has taken a mortgage. Then the whole information would be in the assessor's hands.

Mr. Caswell: Yes, but it has not been the law, and it is not yet, that the assessor is bound to go to the Registry Office.

Mr. Justice MacMahon: No, but I cannot understand how an assessor, where he is making the first assessment of a lot, is to obtain the dimensions of the lot where the plan is registered unless he goes to the Registry Office.

Mr. Caswell: The purchaser would be glad to give the information.

Mr. Fleming: There are three plans filed with every piece of property and there is always one sent to the Assessment Department. We don't go to the Registry Office at all.

Mr. Fullerton: You will find the owner in that way without finding the mortgage.

Mr. Caswell: There are harder cases than that. There are cases of the University. The University has power to lend out money on a mortgage—a very proper transaction. We don't know anything about the mortgage, but they actually foreclose the mortgage in one or two or five years. Unless we have collected the taxes from the mortgagor we lose those as soon as the lands come back in the Crown's hands, because the University lands are vested in Her Majesty.

The Chairman: A still harder case would be this; suppose a man had sold some iron lands to a speculator, and he paid for it, and the patent issued to him, the city did not know anything about that for ten years, and yet it was private property which might have been assessed. If the Crown had sent notice to the municipality of the sale then you would have been able to assess him immediately, whereas you have lost ten years taxes.

Mr. Caswell: We get notice of all lands that are patented under sec. 150.

The Chairman: That would seem to make it proper that you should get every other notice that was reasonable and convenient to enable you to lay on an assessment.

Mr. Caswell: That is all we ask. For instance if it is mortgaged again we don't want to deceive the purchaser. The other class is University lands, which is not strictly Crown lands, and which does not belong to the Government but belongs to the University in the name of Her Majesty.

Mr Fullerton: In that case the deeds are given by the bursar of the University. Would clause 150 cover that?

The Chairman: But the title is in the Crown all the same. I don't know whether the mortgage is taken in the name of the bursar.

Mr. Fullerton: I think so.

Mr. Caswell: What we think is that where the land of the Crown, whether University or otherwise, is taken back, that property ought to be liable for taxes.

The CHAIRMAN: You should have the same notices where the Crown is a trustee as where the Crown is not.

Mr. CASWELL: That is as to notices.

Mr. JUSTICE MACMAHON: Once it is out of the Crown the fact of it having reverted to the Crown should not deprive you of the right to tax the property for all future time.

Mr. CASWELL: We don't object so much to the future; if the Crown actually gets it back *bona fide* and gives us notice we don't care, but we want the taxes that are accrued in the meantime. We don't want to treat the Crown unfairly. Then sections 208 and 209, I think, should be amended so as to make it certain that the title of all land sold for taxes should be absolutely valid after two years. I think the Legislature actually intended to do that in a different section.

Mr. FULLERTON: Won't that be remedied if the taxes remain as a lien against the lands?

Mr. JUSTICE MACMAHON: How could you put a clause on the statute book of that sweeping character? Perhaps where taxes have been paid—

Mr. CASWELL: Where they have been paid I would not object to giving a man who has lost his land a right to get that money back.

Mr. JUSTICE MACMAHON: But that would not be any compensation to a man. What right had you to sell the man's land?

Mr. BUTLER: I know of a case where a number of vacant lands were assessed one year after the other, and the roll copied carelessly, and one lot carelessly omitted to be inserted, and it dropped off the list, and the assessor came and assessed it against a non-resident and lost track of the owner and sold it, and it was a valuable timber lot, but it was held that the sale was bad. The taxes were really paid year by year.

The CHAIRMAN: Speaking for the municipality, what interest have you in making the tax sale valid?

Mr. CASWELL: Simply because we won't get as good purchasers, we won't get people as ready to buy as if the title was not liable to be attacked in the courts. Mr. Fleming has had to buy a lot of property in.

The CHAIRMAN: Do you suppose that is due to doubts about the title?

Mr. CASWELL: Well, I couldn't say it was that; but we could not get the amount of the taxes, and Mr. Fleming thought the property was worth the amount of the taxes and he bought them in.

Mr. JUSTICE MACMAHON: I suppose that was where the city virtually had a mortgage on the property by reason of the local improvements.

The CHAIRMAN: Do you suppose the lack of purchasers or bidders was due to any doubt about the title that the city could convey by reason of the taxes?

Mr. CASWELL: I couldn't say it was that.

Mr. FULLERTON: Mr. Fleming will know about that pretty well.

Mr. JUSTICE MACMAHON: I imagine that in the north-west part of the city where the streets were opened and block-paved and a great expense incurred, in four or five years the owners of the properties did not care to pay the amount of the accrued taxes and therefore let the property be sold.

Mr. CASWELL: I submit that the time has now come that sec. 211 ought to be taken out of the Act. I cannot find any person that knows what it means, and I had a great deal of trouble in searching back to Henry VIII to see what it did mean.

The CHAIRMAN: Can you explain the meaning of that clause to me?

Mr. CASWELL: I don't think I can. I have got the statute, 32 Henry VIII, here.

The CHAIRMAN: That clause has not been on our statute book very long?

Mr. CASWELL: Yes, I have traced it back many, many years.

The CHAIRMAN: Not past 1860, I should think. You know there was a time when there was a great deal of trafficking in tax sale lands, and when a man wanted to redeem or to attack the tax sale he did not know who to attack, because they had passed through so many hands. I rather think the Act was passed for that.

Mr. CASWELL: I will trace that back.

The CHAIRMAN: We will consider it. You need not trouble yourself further.

Mr. CASWELL: Then where the tax purchaser is without any other remedy he shall have a lien on the land for the purchase money. Now what I say is that either sec. 220 should be repealed—perhaps that is not the wisest plan—or 218 should be made applicable to all tax sales that are set aside.

Mr. JUSTICE MACMAHON: That is, whether a man became a tax purchaser or not, in law, he ought to get back his money?

Mr. CASWELL: Yes.

Mr. JUSTICE MACMAHON: That seems fair. There is just this case that I mentioned where land has been sold although the taxes have been paid.

Mr. FULLERTON: In that case the city ought to pay it back.

Mr. CASWELL: In that case the municipality ought to pay it back, because we should not have the money twice. Why should not that be the remedy? But the poor tax-purchaser ought not to be in the position of actually losing his money, he has paid the municipality his money, and he should be able either to keep the lands, or if he has given up the land he ought to keep his money, and he should either get it from the man who has disturbed his title or he should get it from the municipality.

Mr. JUSTICE MACMAHON: Yes; where a man has paid his taxes he should only get it back subject to payment, no matter by whom paid, unless in the case quoted.

Mr. CASWELL: Unless in the case quoted, then it should be by the municipality. They could offer to do it in their defence, and then there could be no future costs against them. I will now refer to sec. 224.

Mr. JUSTICE MACMAHON: You are going to furnish a clause?

Mr. CASWELL: Yes. If this will have to be amended I should suggest that they have like powers. Mr. MacKelcan has spoken about fixing the date for the assessment. We are not so much interested in that, for this reason, we assess our wards separately under sec. 59, and as each ward is compiled the roll for the ward is completed, and we don't want to keep our rolls open till the 1st of October.

Mr. MACKELCAN: But there is a day for the return. I wish a day fixed for the return of the roll; not necessarily the 1st of October.

Mr. CASWELL: The trouble about that is this, that the assessor has to make oath what he finds there, and it is very difficult for him to say that what he is finding there to-day will be there two weeks from now; therefore the assessor must assess a place as he finds it; that is the short way. Then I think it is all right for the appellant to be able to bring down the subject matter of an appeal to the date when he could appeal.

The CHAIRMAN: And he should have relief accordingly?

Mr. CASWELL: Yes.

The CHAIRMAN: Although it was honestly and rightly assessed at the time, yet that the circumstances have changed before the 1st of October.

Mr. CASWELL: We don't say the 1st of October, we say the date of the return of the roll. We return six rolls; our rolls are completed in each ward.

The CHAIRMAN: The 1st of October is the last day.

Mr. CASWELL: Yes.

The CHAIRMAN: That is the same in Hamilton.

Mr. CASWELL: The only thing is they keep their rolls open till the 1st of October and give a man fourteen days in October.

The CHAIRMAN: Then immediately after the return, the date of the Court of Revision is fixed for each ward?

Mr. CASWELL: Yes.

The CHAIRMAN: So that the assessment may be revised in April in one ward and in October in another.

Mr. CASWELL: Yes. We have special provision in sec. 59. We have also provision for making our voters' lists up throughout the year.

Mr MACKELCAN: I suggested the words, "The date of the return of the roll."

The CHAIRMAN: I suppose it might be that the assessment for one of the Toronto wards might be completed as early as the end of February.

Mr. CASWELL: Oh, yes, if we chose to do it.

The CHAIRMAN: So that men might be assessed the end of February in 1899 for the taxes of 1900.

Mr. CASWELL: That is right; that is as it is now. It is physically impossible to have all ready in one day.

Mr. JUSTICE MACMAHON: And it would be difficult to have the appeals heard unless they spread over some considerable period.

Mr. CASWELL: Our Court of Revision sits from May till November at different periods, and the County Judge has appeals after that.

The CHAIRMAN: How would you do, suppose a house is burned down in January, 1901, and you make the assessment now?

Mr. CASWELL: He would pay the taxes on the property as it was assessed.

The CHAIRMAN: Suppose the assessment is complete at the end of February and the house is burned down in March of 1899, then he has got to pay taxes on that burned house for 1900?

Mr. FLEMING: He has the insurance money.

The CHAIRMAN: Suppose he is not insured; suppose he was simple enough to say, "The city has got a fine waterworks system and my house is perfectly safe from fire," and he does not insure at all?

Mr. FLEMING: His house is always up a year before we assess it.

The CHAIRMAN: And he has got to pay taxes for 21 months after it was burnt?

Mr. FLEMING: Yes; but his house is up a year before we assess it.

Mr. PRATT: Take the fire in Ottawa, would you collect the taxes on all those buildings in 1900?

Mr. FLEMING: There is no provision.

Mr. PRATT: Do you think it is fair that those people should pay taxes on all the property that was burnt in 1900 because it was assessed?

Mr. FLEMING: The answer to that is, they would build again.

Mr. PRATT: A good many of them didn't build again, and would not build for a whole year.

Mr. FLEMING: Yes, but in most cases a person would build a better house and he would be assessed on the cheaper one. For instance, we take the assessment in February, April and May; a house may not be built there, and a man would get off the next year.

Mr. JUSTICE MACMAHON: He gets ahead of the corporation that way.

Mr. FLEMING: Yes, he gets ahead.

Mr. WILKIE: Would the single tax cure that grievance?

Mr. CASWELL: I suppose it would.

Mr. FULLERTON: The single tax is on the land, and it is there every year.

Mr. JUSTICE MACMAHON: You have not considered the single tax problem yet?

The CHAIRMAN: The people who have been paying taxes longest, say before 1876, would virtually pay taxes for one year more than they have enjoyed the property?

Mr. CASWELL: Yes.

Mr. FLEMING: I wish to suggest that it is not compulsory upon the municipality to collect the taxes from the goods upon the premises. I think that that should be left with the landlord to look after his taxes, and that the municipality should have the power to look to the property instead of the goods if they feel so disposed. At the present time the law is being worked against the individual for the benefit of loan companies and mortgagees throughout the municipality. A loan company gives notice to the treasurer that they want him to collect their taxes against those premises, and the treasurer either has to go and take the man's goods or else run the risk, a very grave risk, of not being able to collect it from the property. Now I respectfully submit that the municipality should not be put in that position at all, that only in assessment against the real estate the municipality should have the power to look to the real estate. It may be reasonable if there is a personal assessment against the property that the municipality should have to look to the goods, but where it is against the real estate there is no question in my mind that the municipality should not be compelled to collect from the goods of some individual who resides on that property. I think the landlord should look after that, that his property should be responsible for the taxes. That is number one. Now with reference to the delivering of the notices. It is impossible for the assessor to comply with the law now, and I would respectfully suggest that you change that so that the notices instead of being left upon the property, the department would have the option of sending out through the post, or that a clerk would have equal power with the assessor. He does not now, although he has the power under the Act, and it is possibly a question whether a clerk who has been working with the assessor for months has power to deliver that notice or not, or some other clerk or other person in the Assessment Department,

who can swear that notice has been delivered to the individual either on his premises or through the post.

The CHAIRMAN: You say as the law now stands, the assessor must deliver it personal y?

Mr. FLEMING: Yes, that is the law, and the assessor cannot do it. He has to take the oath that he has done certain things under that Act.

The CHAIRMAN: One of which is the delivery?

Mr. FLEMING: Yes, personally on the premises; that is the notice of assessment in the first place.

The CHAIRMAN: There is some difficulty about that. These assessment proceedings are in the nature of an action which results in a debt. Now the Legislature has never thought, either in this country or any other that I know of, that when a defendant can be served with a summons in an action personally, that he ought not to be. It is only under special circumstances, when he cannot be found after search, that any Legislature has ever authorized a writ of summons to be served otherwise than personally. You see it is a serious matter to have an action brought against you and debt recovered, it may be, for a large sum, and this is in that nature. You observe that when proper proceedings are taken it should be a debt which the man ought to pay, therefore he ought to have every fair chance in justice to protect himself.

Mr. FLEMING: We find this that the assessment notices as delivered now on the property do not accomplish what is expected from them at all. If delivered at the house, in seven cases out of ten, possibly the servant girl gets them, pays no attention to them at all, and the property owners know nothing at all.

The CHAIRMAN: It has not been my experience for forty years.

Mr. FLEMING: We have complaints come to the office by the hundred, saying that people never got their notices, and our men swear it was delivered: and if it went through the post, as a rule letters are handed to the proprietor of the house or property a great deal more readily than a printed paper, but there is that point, that the assessors cannot take his oath and comply with the law to-day.

The CHAIRMAN: It would probably be considerable relief to say that it was sufficient if you had the oath of some clerk or something of that kind, that it was served, I should not be prepared to go much further than that.

Mr FLEMING: That would be all right. Now there is another thing, in reference to the sale of property for taxes. The law now allows the city to hold it only for seven years. In the city of Toronto that is going to work an injustice, and there is just a point there too as to where the property goes in the event of the city not selling it inside the seven years. Recently a solicitor of Toronto has written to the corporation saying that the property goes back to the original owner if the city has bought it in at a tax sale, and they have not sold it inside seven years. Now I respectfully submit that the properties should be absolutely the property of the city as Mr. Caswell has said at the end of the second year, and that the city be not compelled to sell it during the seven years, and that they may appropriate it for any other purpose, that is, that they may take a lot that has been bought in at a tax sale and by passing a by-law make use of it for a fire hall or waterworks purposes or police station or any other municipal purposes they like. I have a case in point where a block of property was sold for taxes, the taxes against the property being three or four time more than any ordinary person would give for it.—

The CHAIRMAN: You say it should become the property of the municipality absolutely when?

Mr. FLEMING: Well, I think Mr. Caswell said at the end of a couple of years. I think the way it is now the law allows him one year to redeem, and I would not mind if it were a couple of years—extend it a little.

The CHAIRMAN: What did you say about seven years?

Mr. FLEMING: We are bound to sell within seven years; the municipality cannot hold it longer than seven years. In the city of Toronto that is going to work an injustice in this way; the city started selling property in 1894 and there were thousands of lots put up on account of it having the local improvement tax, and they did not sell. In 1895 the city had to buy in to protect itself. There is a large number of lots going up next year. Hundreds of those lots, perhaps thousands, won't bring the taxes that are against them, and the city are compelled to put up all property that they bought in seven

years, and they will be compelled in possibly a year from now to put it up again and sell it for whatever it will bring. Well, it is a bad time to sell property in the city of Toronto, and we think if the municipality were simply allowed to nurse that property along they would probably get the taxes that were against it; and we would ask that law to be changed so that the municipality are not bound to sell it within seven years, and that they should be at liberty after it has been in their possession for two years to appropriate it for any municipal purposes. There was a case that Mr. Justice MacMahon referred to where a property had been got back after it had been sold to another individual. I respectfully submit if an owner takes proceedings to get back a lot, that it should not be for the amount that the taxpayer has paid at a public auction, but it should be for the amount of taxes that are standing against that property, because the municipality may have lost hundreds of dollars on the tax sale. Then there was another point there; the property owner has only five days now to appeal. That law was put in at my own request, the request of the city of Toronto. It was formerly 14 days. We find that five days is perhaps a little short, does not give the property owner a chance to appeal against his assessment, and we think if you were to make that ten days perhaps it would be more agreeable and more advantageous.

The CHAIRMAN: You made a point that I did not quite catch as to property being put up for taxes.

Mr. FLEMING: A purchaser goes there and buys that property. Now the owner comes along a year or two after, and he takes proceedings to get back his property, and under the law at the present time he may get it back, and an innocent purchaser may lose his money.

The CHAIRMAN: How?

Mr. FLEMING: Perhaps through irregularities, &c.

The CHAIRMAN: Do you mean because the sale was bad?

Mr. FLEMING: Yes.

The CHAIRMAN: Just the same point as Mr. Caswell made?

Mr. FLEMING: Yes, Mr. Justice MacMahon suggested that the owner might get his property back upon payment of the amount that the purchaser had given for the property. Well now, what I say is that would be unfair to the municipality, for the reason that the property is frequently sold for a very great deal less than the taxes that stand against it, and if it is going back to the owner it should be upon condition that all the taxes are paid that were against the property.

The CHAIRMAN: Where a tax sale is void the owner should not get it back without paying the whole of the taxes.

Mr. FLEMING: Yes, sir, irrespective of what it brought at public auction.

The CHAIRMAN: They are getting that now on the assessment certificates.

Mr. FLEMING: There is no property being sold now in Toronto for less than the amount standing against it. Then there is another point that has come up. A piece of property was sold in 1898 for taxes. The owner of that property is now taking proceedings on the ground that the sale was irregular, the assessor did not do his work, &c., and he has offered to pay certain taxes, but he says, "I won't pay any taxes on that property since this came into the hands of the city, because it has been marked 'Exempt' upon the city's books;" and I question if we can collect it. Now I think a change should be made in the law so that if the owner gets back his property we should have the right to charge the property up to date and just as if it had been assessed all the time to him originally. If you thought it would be any advantage we would submit those changes to you.

The CHAIRMAN: We would like drafts of any of those changes of clauses. They would be useful to us.

Mr. CASWELL: Section 296 of the Municipal Act deals with the appointment of assessors. If there is any hitch between the Mayor and Assessment Commissioner there ought to be some way of adjusting it.

The CHAIRMAN: Is that a supposable case?

Mr. CASWELL: Yes; two persons might not agree; then I suppose it would be a veto. I know of one case where the Mayor insisted on a certain person being appointed and the Assessment Commissioner said, "I will resign."

The CHAIRMAN: That would be a remedy.

Mr. Caswell : That would be a severe remedy.

Mr. Hall : A case occurred in Hamilton a few years ago and Mr. MacKelcan was asked to give a decision on the matter.

The Commission adjourned at 1.30 till 2 o'clock.

On resuming :

The Chairman : Any further suggestion of amendment to the Act ?

Mr. Hall (Assessment Commissioner, Hamilton) : I shall confine my remarks entirely to clause 6 of the programme. I don't think that this Commission with the knowledge they have of assessment matters and the working out of the Assessment Act will reduce the powers that assessors already possess ; but speaking from the standpoint of an Assessment Department and in defence of the assessors, I think some powers ought to be added to them in order that they may be able to make a fair and equitable assessment. I don't know that I can do better than simply give a brief resume of the manner in which we endeavour to carry out the Assessment Act in Hamilton. In our Department we have three permanent assessors. In passing I might remark that the difficulty Mr. Caswell mentioned as to disagreement between the Mayor and Assessment Commissioner not being agreed as to the appointing of an assessor happened in our own Department three years ago, in which an assessor, just through being probably a little too anxious to do his duty, and endeavouring to carry out the Assessment Act in its entirety, had made a great many enemies, and great pressure was brought to bear upon the Mayor to get rid of his services. The feeling was somewhat embittered as we were fighting through probably the largest assessment that ever went through the Province—the income of the Canada Life Insurance Co., and this assessor, who is a very efficient officer, who has appeared before you and given you ten years' experience as an assessor, I felt it wrong that he should be sacrificed at the interest of any moneyed corporation, and I determined as far as I was concerned I should retain him. The matter was placed in the hands of the city solicitor to give his opinion, in which he virtually said that no compulsion could be brought to bear upon an Assessment Commissioner to take a man into his Department that was not perfectly satisfactory to him as to his qualifications to do the work. Since we have placed our Assessment Department on a permanent basis it has worked very satisfactorily, and I think our citizens as a whole have come to like the system. Instead of changing assessors every year and bringing in inexperienced men, we have men thoroughly experienced, who by having specific work to do have become specialists, and we have our Department now in a very fair and efficient shape, and I think it second to none in the Province. I am pleased to note that the senior Assessment Commissioner of Ontario, Mr. Pratt, occupies a position on this Board, and I think when you are discussing this matter together he will verify anything I may say along that line. I think the assessor should be picked solely for his qualifications for the work. In the rural districts the selection depends too much on political influence, and very often a man is placed in the position of assessor who is not qualified to fill the position, and his assessment I am sorry to say is not given according to the dictates of his conscience and is subject to a great extent to party influence and to the influence of the moneyed corporations. This I think would be obviated to a great extent if in some counties a supervisor of assessment was placed over an entire county, as suggested by Mr. Duncan. A great many difficulties which have been raised here we have not had. Speaking of non-residents, we have a book which we have compiled for many years in our Assessment Department which contains the particulars of the properties owned by all non-resident owners. Our assessment commences in May and finishes on the 1st of October. During the month of April we take this index book of non-resident owners and send out notices to all of them to make a return to the assessment department, and while some of our actions in making the assessment are not strictly in accordance with the Assessment Act, we have found them to work out very beneficially and satisfactory to all parties concerned,and it is the intention of our Department to lay before your Board a comprehensive statement of the manner in which we carry out the assessment and also a copy of all the papers and notices that we use. I am well aware that our roll is not strictly in accordance with the Act, but a copy of that roll shall be laid before you, and also of our blotters, which is the work which the assessors take out and make the first assessment, from which they copy to the roll.

The CHAIRMAN: With what view do you propose to lay these papers before us?

Mr. HALL: In order to give the Commission the advantage of knowing what is being carried out in the Province of Ontario. I understand the Assessment Department of Toronto are doing the same. I inferred that was the intention of the various departments, more particularly the cities.

The CHAIRMAN: With what purpose?

Mr. HALL: With the purpose of aiding in arriving at some comprehensive form to be used in cities that could be used in all alike. In the schedule notice that we send out a great many columns are useless and not applicable to a city.

Mr. MACKELCAN: That is the schedule contained in sec. 13 of the Act; it is defective in many respects and a little contradictory too. It is in the text of the Act, it is not the schedule attached.

Mr. JUSTICE MACMAHON: Is it the schedule that you would substitute for the schedules that have been used by cities and towns heretofore?

Mr. MACKELCAN: Yes, in some respects.

Mr. HALL: Schedule B I have reference to

Mr. JUSTICE MACMAHON: So that sec. 13 might be amended in some measure according to the suggestions there?

Mr. MACKELCAN: Yes, and this schedule D provided for would also be accordingly altered.

Mr. HALL: And in view of that material which we propose to lay before you, in addition to what Assessor Hutton has already laid before the Commission, my remarks will be very brief. There is one thing, I would like the Commission to recognize the fact that the assessor occupies no very favourable position.

The CHAIRMAN: We have no jurisdiction to consider anything of that sort. We cannot improve his position.

Mr. HALL: I thought probably in defining his duty in the Act that you would recognize that.

The CHAIRMAN: We are prepared to consider any specific change that is suggested.

Mr. HALL: Well, I have not at the present time any specific change to suggest.

Mr. JUSTICE MACMAHON: Whether the assessor's duties are onerous or not we cannot alter the duties.

Mr. HALL: Then I don't think there is anything further I can say except that I am here to answer any questions in reference to the working out of the Assessment Department of Hamilton. I appear here more for the sake of getting the nature of the evidence which the commission would desire to have laid before them in order not to take up too much time. I intended then to reduce it to writing in printed form.

The CHAIRMAN: If you have any suggestions to make in reference to the improving of the law to make the law more efficient and successful in its working we shall be glad; your experience will be very valuable, I have no doubt, in noting where an improvement could be made in the Act.

Mr. HALL: I think it would facilitate matters by reducing that to writing and not taking up the time of the commission.

The CHAIRMAN: It would be better it should be done here where answer could be made.

Mr. JUSTICE MACMAHON: As I understand, what you propose doing is to prepare some proposed amendments to the Act as suggested partly by Mr. Caswell and partly by Mr. MacKelcan.

Mr. HALL: Yes, the amendments Mr. MacKelcan has suggested are in accordance with the view of the Assessment Department of Hamilton, with which he is thoroughly familiar.

Mr. MACKELCAN: I would only add a few words to what Mr. Caswell has so fully and so well said upon the subject of the collection of taxes. On the first day of the sitting of this commission I went pretty fully into the matter of the collection of the taxes on real estate, taking the ground that land should be the primary fund to be looked to for the payment of those taxes, and that the collection by means of distress upon goods and chattels should be merely an auxiliary or collateral remedy so as to enable the municipality to expedite the payment of the taxes where they could be with convenience and advantage to the municipality collected or forced in that way. My views on that subject

have been strengthened by what has fallen from Mr. Caswell, and upon further consideration of the subject, I would refer the commission now to section 155 and to the very complicated procedure that is there prescribed for endeavouring to collect taxes from the chattels assessed after the collector has returned his roll. My view of the matter is that whether or not any action should be taken by the treasurer after the roll has been returned to him by the collector would depend upon whether it comes to his knowledge or the knowledge of the city authorities that the taxes can be more expediously collected than by the sale of the land. I will take the somewhat analagous case of a creditor who has put in the sheriff's hands an execution against goods and one against lands. Under the law he cannot sell the lands until there has been a return to the execution against goods that there are no goods. In the same manner the treasurer cannot proceed to sell the land for taxes until the collector has made a similar return in the case of taxes. But if that return has been made that there are no goods, the creditor may nevertheless, if the debtor acquires goods, issue an alias writ of execution against goods and can seize goods if they can be found. Now what I would suggest is this: after the roll has been returned to the city treasurer, he should be at liberty, if in his judgment, or if from facts that have come to his knowledge he thought it advisable, and if he thought there was a possibility of collecting taxes in that way, he might issue an execution against goods which would be auxiliary to his collection of the taxes by the sale of the land.

The CHAIRMAN: To whom?

Mr. MACKELCAN: He could issue it to a bailiff just as a collector can, and then when the money is received he could enter it in his books. In the year 1899 an amendment was made to the Assessment Act authorizing the treasurer to accept payment on account of taxes—62 Vict. chap. 27, sec. 13. Formerly he could only receive payment of the full amount. Now as he can receive payment in part, so he should have the power to collect in part if he sees an opportunity of doing so, if it is brought to the knowledge in any of the city authorities that taxes which are returned upon the collector's roll as unpaid can be collected in a more expeditious manner, the city, through the treasurer, should have power to collect them in that way. That would save all this process of circumlocution, of sending the roll back to the collector, and the collector sending to the assessor and the assessor hunting for the goods and then returning to the collector that there are goods, and all this round about way of labour would be saved by simply giving the treasurer power, if he finds it desirable to do so, and if he is instructed to do so, to issue the warrant and collect what he can before he advertises the land for sale: and he can credit that on the taxes the same way as if a direct payment were made to him for that. That is the common sense way, it seems to me, to deal with the matter, and it would obviate all these difficulties that have arisen in that Caston case. Mr. Justice Gwynne points out there what a lot of things must be done in order to discharge all the various requirements of the statute. You get yourself so tangled up that the officers scarcely know where they are. This is perfectly simple, perfectly in accord with legal practice and business practice and common sense. Then, too, when you take into account that this is merely auxiliary and optional on the part of the city, that if they think under the circumstances it would be unfair to distress a man, a man may be poor enough, he may be land poor and he may be willing that his land should be sold, instead of being turned out of house and home by having the little household furniture that he has taken away from him and from his family and leaving them in destitution and throwing them out on the street, he may say, "Go on and sell the land, there is plenty of security there for taxes, and don't harass me;" and the treasurer and the city authorities ought to be at liberty to take that course.

The CHAIRMAN: Is there much difference between the exemptions in case of taxes and the exemptions in case of a debt?

Mr. MACKELCAN: I am glad you have mentioned that, because I was going to call your attention to that in connection with this very subject. The only exemptions that are granted are these (reading) "The goods and chattels," etc. (sec. 135, subsec. 2) The household furniture therefore of the person assessed would be liable to be sold just to the last stick of household furniture; his family could be turned out on the street for the taxes upon land even though that land was perfectly good and although all the officers of the municipality were perfectly willing that the land should be the source from which the tax should be obtained, but under this tyrannical law, as I consider it, at present

on the statute book, they would not be permitted to exercise a judicious and merciful discretion in the matter, but they are compelled to sell a man out to the last shred of all the personal property he possesses before they can have resort to the land which alone is the subject of the taxation.

The CHAIRMAN: Then there is no exemption in favour of the taxpayer himself?

Mr. MACKELCAN: No, the exemptions only apply—and there comes a moot point in regard to which the statute is a little obscure—in case of a claim by wife, husband, daughter, son, daughter-in-law or son-in law in case of seizure for taxes. But the question comes up whether those persons could claim exemptions. If the goods were seized as if they were the goods of the person assessed because liable to seizure in that light, and not entitled to exemption by reason of those persons being relatives, if the whole corpus of those goods liable to be sold by execution?

Mr. JUSTICE MACMAHON: I think so, because if you look at the clause in relation to distress for rent you will see where these are excepted, these very goods that you speak of—excepted altogether from liability for distress.

Mr. MACKELCAN: Subsection 2. The question has come up before me and although it has been very seriously questioned I have advised that where the goods belong to the wife or to the mother-in-law or other relatives living in the house that they would be entitled to their exemptions. I may say, however, that mortgagees have disputed that, and we have a question now pending with a mortgagee who insists that we could have sold out everything belonging to the relatives of the man assessed because they were not entitled to claim exemption. It is a very nice point of law, and there comes up that ugly question again that we must either do that which is heartless and cruel or lose our taxes. I think we should have the same rights as the mortgagee would have, or as Mr. Cassells has put it to-day a landlord may have—that is, to follow out that remedy which would be least oppressive. All that we are expected to do is to protect our own interest and to use such diligence as is necessary in the interests of the municipality, to prevent loss of taxes, but at the same time not to be compelled to use cruel and harsh measures against the right feeling of anyone who really took a fair view of the situation and do what no ordinary creditor would do if the claim were his and he were left the option that the law gives him to enforce payment of the debt in such a manner as might least injure his debtor, while at the same time secure to himself all that is due to him. In asking for this change, section 155 that I have referred to, in regard to the power of the treasurer, I would have it made to conform very much to section 171. I would prefer, instead of issuing it to a collector, that it should be issued to a bailiff by the treasurer so that the treasurer would not be mixed up in his accounts with the collector The treasurer could get it direct as if it were a payment made to him by the person indebted for the taxes. The collector would wash his hands of the roll when once he had returned it to the treasurer. I would call the attention of the Commission to this advantage that would arise from that method It is important to the municipality that the collector should make this return at as early a date as is convenient in order that it may be seen what is unpaid upon the tax roll. The treasurer does not return the original roll, but he returns the statement made up from that of the unpaid taxes. His original roll contains an enormous amount of taxes. I am speaking of the procedure under sections 147 and 148. (Sections 135 and 136 of the old Act) The collector should also give the treasurer an early opportunity of seeing how much taxes remain unpaid, and for the council to get that information and act upon it, but if after that return is made the hands of the city are tied then it is an advantage rather to postpone the handing in of that return because—

The CHAIRMAN: We were told that some rolls were not returned for seven years.

Mr MACKELCAN: Yes, which is simply for that reason, because from the time the rolls were returned the hands of the municipality are to a certain extent tied. They cannot levy upon the goods without sending back again, and all this circumlocution which is very awkward and very inconvenient and entails a lot of trouble. So long as the rolls remain in the collector's hands he can issue his warrant whenever an opportunity offers and force payment of the taxes. Well, if there were the same power in the hands of the treasurer after the roll was returned to him, there would not be that reason for the delay in the return of the rolls that exists at present, and in that way the whole system would be very much simplified, justice would be done much more fully to all parties than

under the present system, and the practice would be made uniform with that under sec. 171, where the County Treasurer, when he is satisfied there is a distress to lands non-resident—and that should be extended to all—he may issue his warrant, but I would have it issued not to the collector, but to someone for the treasurer; I would have it collected by the treasurer, so that by the time the roll is returned to the treasurer everything goes into his hands. I would leave it in the hands of the treasurer. He can easily arrange that as part of the work of his department, but the collector would have washed his hands of the roll and he would have the whole time to give to the new rolls that were coming on so that he could properly and effectually deal with them.

Mr. JUSTICE MACMAHON: Where the roll is returned and it is desired that the time for collecting the remaining taxes should be lengthened, are they obliged to give the old rolls back to the collector? Cannot they appoint a special collector?

Mr. MACKELCAN: Well, in the case of townships that is done, but where there is a permanent collector, the only way to do is to extend the time so that the collector need not return his roll until the expiration of the further time allowed. Of course in the municipalities where the collector is changed every year, as it is in township municipalities, if time is given to return the rolls, after the expiration of the term of office of the original collector, then his successor deals with them.

Mr. JUSTICE MACMAHON: I am speaking of a case like this: The rolls for 1897 have been in the hands of the collector. In 1898 he returns them to the municipality. There is on that roll a third of the taxes uncollected. He keeps the roll for 1898 and that is in his hands. Where the municipality desires that the collection of the taxes for 1897 should be proceeded with or an endeavour should be made to collect the balance due on that roll, they need not hand that roll to the collector, they may appoint a special collector.

Mr. MACKELCAN: But if the roll has been once returned to the treasurer then they have to follow out the procedure.

Mr. JUSTICE MACMAHON: I am speaking where the return is not to the treasurer but where it is merely handed to the clerk of the municipality.

Mr. CASWELL: Sec. 145 applies to towns, villages and townships in that case. They may authorize a collector or some other person in his stead.

Mr. JUSTICE MACMAHON: That is what I was thinking of, because I know of a case where the rolls were not given to the collector, they were given to somebody else; it was handed in to the clerk of the municipality, I suppose it did not reach the treasurer's hands at all, and the council acted upon the authority given by that section, to appoint somebody else to collect the back taxes.

Mr. MACKELCAN: That would be this case—"in case a collector fails or omits to collect the taxes or any portion thereof." Then he did not make any formal returns. The collector is only for a year in those municipalities, and if he goes out of office and has not collected his taxes and has not made his return it is necessary to appoint someone to do it. Of course in the cities the collector is a permanent officer, and they simply enlarge the time for returning the roll, and I suppose if they dismiss the collector or the collector dies, the successor takes over the roll as a matter of law or as a matter of course. This would assimilate the mode of collection with what it is under sec. 171, and would save a good deal of risk that municipalities now run by having their taxes disputed by reason of their not having adopted all the remedies given by law. Apropos of this I might mention a case that recently occurred in Hamilton. A man who was well off owed taxes for three or four years upon real estate. He was a man who had taken quite an active part in municipal affairs, and had what was supposed to be a "pull," and when the collector went to collect his taxes he went to the Mayor and got him to get the collector to stay the seizure under execution; so in that way he put off the collector for three or four years. Mr. Edward Martin held a mortgage on that property, and finding the taxes were in arrear, and that the mortgagor had not paid them, he paid the taxes. Afterwards, in suing upon the mortgage, he sued the mortgagor not only for the mortgage moneys but for the taxes which he had paid in order to protect his security; and the mortgagor set up the defence that the mortgagee had no right to pay the taxes because the property was free from the taxes by reason of the collector having failed to distrain upon him for the taxes, and he had plenty of goods and chattels all the time out of which the taxes could be made.

Mr. CASWELL: That is the Caston case over again in another form.

Mr. MACKELCAN: The case came up before Judge Snider, I don't know what his decision will be in that. It was very strongly urged that the forbearance of the municipality had absolutely discharged this property of the liability for taxes. That is an iniquitous law if it is the law.

The CHAIRMAN: You have some shrewd citizens in Hamilton.

Mr. MACKELCAN: Well, this is a man who is always attacking the Aldermen and the city officials for not doing their duty, and that is the way he does his part of it as a citizen.

The CHAIRMAN: He was urging upon them to do their duty all the time, in the abstract.

Mr. MACKELCAN: He was begging them not to distrain on him. He was begging off and using every influence he could to prevent the collector and collector's bailiff.

The CHAIRMAN: To do their duty to everybody but him.

Mr. MACKELCAN: Yes.

The CHAIRMAN: Mr. Caswell, the Toronto taxes are payable to the treasurer, who is the collector under the Act?

Mr. CASWELL: No, the Act says the treasurer cannot be the collector. They are payable to him or to the collectors appointed, that is how the by-law is. The object of that is that a citizen can go down to the treasurer and pay without looking for the collector.

Mr. JUSTICE MACMAHON: I suppose where the taxes are allowed to be paid in installments that is about the only way that they can be paid.

Mr. CASWELL: We cannot make the treasurer collector without special legislation.

The CHAIRMAN: If a collector goes to a citizen and wants the taxes, how is he to answer? What is the collector's duty if the taxes are paid over his head?

Mr. CASWELL: Well, the collector makes out all the bills and delivers them to all the citizens in his district.

The CHAIRMAN: He has got the roll in his hands?

Mr. CASWELL: Yes.

The CHAIRMAN: And he makes out the bills and serves them?

Mr. CASWELL: Yes.

The CHAIRMAN: And then if they are paid to the treasurer it is equivalent to a payment to him?

Mr. CASWELL: Yes, and the treasurer credits the collector for that much money.

The CHAIRMAN: Is there a collector for the whole city?

Mr. CASWELL: We have six collectors, one for each ward. Then a collector dare not distrain until he has got the treasurer's books posted up, because he might be distraining on a man that has paid the treasurer. That is why we cannot distrain promptly.

Mr. J. L. MCCULLOUGH (Assessor East Toronto): Why not make the treasurer the collector the same as the collector is now?

Mr. MACKELCAN: The treasurer has too much to do with us to be the collector.

Mr. MACKAY: It seems to me in every municipality the treasurer receives the taxes and the collector simply acts as a bailiff for the purpose of serving notices and levying distress.

The CHAIRMAN: The collectors are at present appointed by the Council?

Mr. CASWELL: Yes.

The CHAIRMAN: How does the proceeding work in practice; does the collector himself distrain?

Mr. MCCULLOUGH: They do sometimes in some places.

Mr. MACKELCAN: Then you mean the collector should act as agent of the treasurer.

Mr. MCCULLOUGH: Yes.

The CHAIRMAN: As the Act stands the collector may distrain himself or appoint a bailiff to distrain?

Mr. MACKELCAN: Yes.

Mr. JUSTICE MACMAHON: It is quite a common practice, at least it was in London that where the water rates and the amount of assessment was notified to the taxpayer by one document, for him to pay the whole to the treasurer—taxes and water rates; the treasurer takes the water rates here?

Mr. CASWELL: Yes.

Mr. JUSTICE MACMAHON: Water rates are all paid to him?

Mr. CASWELL: Yes.

Mr. MCCULLOUGH: In the Township of York the treasurer is the collector and he does the whole thing, and I may say that the treasurers of all other municipalities collect the water rates, and they are practically in the same form as taxes, and I don't see why the provision is in there that he cannot be collector, because he has nothing whatever to do with the making of the roll.

Mr. MACKELCAN: Each collector of taxes is also collector of water rates, but he has a separate roll for that just as he has a separate roll for every improvement tax.

Mr. CASWELL: Sec. 295 of the Municipal Act prevents the treasurer from being collector.

Mr. MCCULLOUGH: There are numbers who are acting as collector as well as treasurer throughout the Province without any special legislation; take North Toronto, West Toronto.

The CHAIRMAN. Is there special legislation?

Mr. MCCULLOUGH: Some of them have and some of them have not. York has, I think, Scarboro' has not.

The CHAIRMAN: Is that special legislation contained in the Municipal Act?

Mr. MCCULLOUGH: Yes.

Mr. JUSTICE MACMAHON: I think the law was changed in consequence of the failure of the treasurer of the city of London to account for about $100,000 of taxes.

Mr. MCCULLOUGH: I spoke to Mr. Hardy on that question one year, and he said he would take it up. I suppose that was probably what led up to it, but where an assessor makes the assessment he makes his return to the clerk, the clerk makes up the roll, enters all the figures, all the charges, then he in turn hands the roll to the treasurer; the treasurer then does nothing with that roll but simply, possibly, add it up and charge the collector with it and hand it over to the collector, so that the treasurer has no hand in making the roll whatever; then as soon as the collector returns his roll to the treasurer, back to the same man again, he is at liberty to collect taxes then if they come in voluntarily, but he has no power to go after them. That is why I suggest that if the treasurer was in the same position as the collector he would have the power all the time.

The CHAIRMAN: What would be the probable effect of making the same exemptions in the case of taxes as in the case of debts.

Mr. MACKELCAN: Of course if the land is looked to as the primary fund for payment of taxes there would be no particular hardship.

The CHAIRMAN: As a rule there is sufficient security in the land?

Mr. MACKELCAN: Yes.

The CHAIRMAN: But of course there would be the delay?

Mr. MACKELCAN: Yes.

Mr. JUSTICE MACMAHON: Well, there is always a delay in collecting the non-resident taxes.

The CHAIRMAN: Then if the same exemptions were allowed, sometimes the taxes would never be able to be cast on a mortgagee.

Mr. MACKELCAN: Yes, undoubtedly.

The CHAIRMAN: On the other hand the mortgagee could not levy on the same chattels that were exempt.

Mr. MACKELCAN: No, he looks to the land.

The CHAIRMAN: He looks to the land and to the individual, to the debtor, but subject to the exemptions.

Mr. MACKELCAN: Subject to the exemptions unless he has special power to distrain given him in his security, and that will still remain.

The CHAIRMAN: It looks as if there was not any injustice in that case in allowing the same exemptions for taxes as there are for debt. It would be a humane provision in a multitude of cases.

Mr. MACKELCAN: I would think so.

The CHAIRMAN: The Legislature has gone so far as to make exemptions from payment of rent, which is a very strong thing to do.

Mr. MacKelcan: No municipality likes to sell any man out of house and home, at least turn him out on the street.

The Chairman: We have all heard of very hard cases of landlords selling out the last stick of furniture belonging to his tenant. It cannot be done now.

Mr. MacKelcan: But as a rule municipalities are lenient with those who are unable to pay; they are acting on behalf of the public.

Mr. Fullerton: They cannot be now.

Mr. MacKelcan: No, under the law as it is now we are compelled to be harsh no matter how distressing the subject may be.

The Chairman: At the peril of exempting the land?

Mr. MacKelcan: Yes, at the peril of losing our taxes on the land.

Mr. Justice MacMahon: If a municipality is relieved from the duty, that is all they want.

Mr. MacKelcan: That is all. Their own interest will induce them to collect.

Mr. Justice MacMahon: You use all legitimate means to get the money?

Mr. MacKelcan: Yes.

The Chairman: There is a question, too, of equality and fairness, because every citizen is interested in seeing that every other citizen pays his proper amount of taxes, and if A is exempted, then B has got to pay his taxes; at least B, C and D and the rest of them have got to pay A's taxes if A is exempt.

Mr. MacKelcan: But now if a municipality act leniently towards A the taxes are lost altogether and B has to pay them. Otherwise, if the lien of the municipality upon land were not lost it would simply be a delay in the collection, and from the time of the return of the roll to the treasurer that would bear 10 per cent. per annum.

The Chairman: Delay is better than loss?

Mr. MacKelcan: Yes.

Mr. McCullough: Is that not the law now in relation to the collection of water rates? They still have a lien on the land. Why not make it the same with taxes?

The Chairman: There is no distinction apparently between water rates and other municipal debts.

Mr. McCullough: It works out differently. There should be no distinction.

The Chairman: The time might arrive when the city could afford to supply water without any special payment at all.

Mr. Fullerton: I think if the law was changed, as you have suggested, it would on the whole work well, for this reason: The class of men we appoint as collectors will do almost anything before they will seize on the last thing in a poor man's house. They avoid it if they possibly can, but if there was a limited sum to be left to that man and they only seize what is above that, so that they were not practically throwing the man into the street, they would then feel more like enforcing the law.

The Chairman: They would take something in those cases where they now take nothing?

Mr. Fullerton: Where they now take nothing, where they cannot distinguish. If they go in now they have got to take all, and they are very loath to do it. I know that is so from the number of times they have come in to me with letters from mortgagees and other parties, saying that if they did not go on and seize that they would take proceedings to have the city held responsible for the taxes, etc., and if there is any means of avoiding going in and seizing in cases of that kind they take advantage of it. They feel it a very grievous duty and burden that is placed on them; and on the other hand, I may say I once spent the best part of two days over a case where we had to seize on an old shoemaker living in a small house. We lost our taxes because we had not distrained, which is the same as in the Caston case; but there had been a reply, "Not sufficient to distrain," and he himself was contesting it on the ground that there was sufficient. His wife went into the witness box, and happened to be a fairly honest, straightforward woman, and on her own evidence Mr. Justice Falconbridge decided there was not sufficient to distrain, in fact there was not anything that ought to have been distrained.

The Chairman: Was it the man's own freehold?

Mr. Fullerton: It was his own freehold.

Mr. Caswell: In Section 147 I would suggest that the word "or" be put in the 8th line after the word "collect," so that it will read "or as the case may be." In

Sections 169 and 170—this is in the interest of the ratepayers who have paid their taxes—the 6 or 10 per cent. ought to be added whether the books are balanced or not. The 1st of May ought to be the division. We don't want it to be more than 6 per cent., but we want it to be there. We don't want the prompt paying taxpayers to have to pay 6 per cent. What I suggest is to leave out the words, "at the balance to be made." We have had that objection taken, that because we did not have the collector's roll back in our hands we didn't put on the 6 per cent.

Mr. McCULLOUGH: I would like to see the law changed so that after a tax purchaser has a property for two years that the owner cannot redeem it unless he has receipts for the taxes being paid.

Mr. JUSTICE MACMAHON: That was fully discussed. We will have to consider that in the light of the decisions.

The CHAIRMAN: You would confine that, however, to the cases where the tax was actually due. If there was no tax due there ought hardly to be any limit of time in reason within which the owner should get it back.

Mr. McCULLOUGH: There are so many attacked on just irregularities in the conduct of the sale.

The CHAIRMAN: If the tax was actually laid on and due.

Mr. JUSTICE MACMAHON: Mere irregularities are cured by the section that is already in existence and has been for years.

Mr. McCULLOUGH: There is another thing. I may say that on the sale lands, I have sold for two years now, and when selling for the amount of taxes against them I am sometimes led to consider too that the cost and expense are a part of the taxes, and then again at other times that they are separate, so I am at a loss to know whether they are. For instance, at the last sale we held the municipality instructed me to retain all the lands that did not bring the taxes, and when the owners of those lands found that they were going to be retained by the municipality they bid the amount of the taxes, but they did not bid the amount of the costs. Now the question is are they entitled to pay the whole costs or just the even taxes? I do not think it is very clear; I cannot get an opinion from our solicitor.

The CHAIRMAN: The owner bids the amount of the taxes and no more, but the Act expressly gives authority to sell not only for the taxes but for the costs.

Mr. CASWELL: He cannot get any other bid.

Mr. McCULLOUGH: And the municipality says they will hold the lands unless they bring taxes. Now the question is, did I do right in allowing those owners to get their lands for the taxes, or the taxes and costs?

The CHAIRMAN: I should think you could have applied the money you got first to the costs and then to the taxes. That would leave the taxes due still.

Mr. McCULLOUGH: I would be very glad to do that.

Mr. FULLERTON: The difficulty is there that the person paying has the first right to apply.

Mr. JUSTICE MACMAHON: Take the taxes for each year and add ten per cent. to the taxes that are due and entered on the roll as that certain amount. Where there are two years taxes overdue and you are selling for those two years—three generally—you often add the two years to the taxes when you are selling the lands. The taxes that are then due before the sale actually takes place, that is when the returns have been made, but in no case do you add the costs?

Mr. McCULLOUGH: No, not in the ledgers. We make out the tax list. They show separate in separate columns, so much for taxes and so much for costs of advertising, and then the total.

Mr. JUSTICE MACMAHON: Then the total you put in as taxes and the costs of sale?

Mr. McCULLOUGH: Yes.

Mr. JUSTICE MACMAHON: Well then the lands are liable, are they not, for the whole of that sum?

Mr. McCULLOUGH: I would think so, but then you only get the first bid by the owner, that is you get the taxes and he will say, "I have paid the taxes on those lands, and I am not going to pay any more, and they must come to me because that is all that appears in the ledger against that lot."

The CHAIRMAN : You suggest that when an owner has bid the amount of the taxes the municipality cannot bid in addition to that the amount of the costs and taxes ?

Mr. MCCULLOUGH : Yes, and that the municipality is done out of the costs too.

The CHAIRMAN : Unless there is something very strong in the language of the Act I should not think there would be any difficulty about that.

Commission adjourned at three o'clock till 10.30 to-morrow, Tuesday, to take up the subject of Local Improvements.

THIRTEENTH DAY—TUESDAY, 27TH NOVEMBER, 1900.

We, the commission met at 10.30 a. m. Present :—All the Commissioners.

The subject for discussion was Local Improvements, and subjects relating to Municipal Taxation not before discussed.

The secretary read a communication from the Board of Trade, Hamilton, on the subject of local improvements ; a letter from the County Treasurer of Bruce, relating principally to the collection of taxes ; a letter from Mr. Lockhart Gordon, in regard to the taxation of church and other voluntary schools.

The CHAIRMAN : I understand there are are some gentlemen here who desire to get away. We are now ready to hear them.

Dr. E. J. BARRICK : Mr. Chairman and gentlemen of the commission : I appear on behalf of the Toronto Ratepayers' Association and the property owners of this city. We come here not to ask any favours. The Assessment Act begins with the statement that the taxes shall be levied equally upon the whole rateable property, real and personal, of the municipality or other locality, according to the assessed value of such property. That is, based upon its monetary value. Now, that principle that is there laid down is based upon justice and equity. The real estate is assessed upon that basis and therefore no reasonable person should complain, and we do not complain upon that ground. But we have in the Assessment Act some 28 or 29 clauses that depart from this principle of justice and equity. Just as soon as you depart from the principle of justice and equity in dealing with assessment, then you meet with all sorts of obstructions ; then you are like a vessel at sea without a rudder, drifted hither and thither as the wind may change. You have had before you representations from people who enjoy these exemptions asking you either to continue the favours that they have or to increase the favours that they enjoy. It must therefore be refreshing for some one to come here and plead not for any favours, but for simple justice and equity. It is upon the smaller property owners and the holders of smal houses, that will embrace the whole of the industrial population that earn from ten to twelve dollars a week, that the heaviest of all the burdens fall with regard to our present Assessment Act. No less an authority than Joseph Chamberlain a couple of years ago introduced a bill empowering local authorities to advance money to small occupiers to acquire ownership of small houses upon the principle of the Irish Land Act and the Small Holding Act. He said he believed such a measure would make better citizens and provide a popular form of thrift. The bill provides that forty pounds sterling may be advanced on houses of the value of three hundred pounds. A year or two before that, in opening Parliament the Queen in her speech referred to this very same thing and the importance of encouraging that class of people to own their own houses. Now let us see

what we are doing in this city and Province under our Assessment Act towards this class that is so highly spoken of. Take the owner of an average house who is assessed at a thousand dollars, which would be the average whether it be a cottage or a house. Let us inquire what burden is placed upon that owner, that toiler. In the first place this year he would pay $19.50 general taxes for this thousand dollars. He also pays local improvement, an average of about four to five dollars a year. He pays more local improvement in proportion to his thousand dollars than almost any other person that you can mention, because the less value there is on his land and his house the greater proportion he pays upon local improvements. He therefore pays say $24 a year on his thousand dollars. Now, on the broad principle, should that man in his position pay more for his thousand dollars than other people do for their thousand dollars invested in any other shape or form? He pays the interest, as it were, of 2½ per cent. on his thousand dollars. Why, if you would confiscate that man's house, if you would sell his property at the assessed value and place the money on deposit in the Post Office Savings Bank you would scarcely get as much; you might get perhaps half a cent more than you are taking out of that man to day. Across the street lives another person, boarding if you like; he has $8000 invested in stocks, I care not what, gas company or any other, I care not what, $8000 that pays a dividend of 5 per cent. He gets $400 He toils not, neither does he spin, except around on his wheel, and if that property owner does not keep his roadway in good repair so as to make it comfortable for him to ride, he writes a letter to the city engineer to put down on the initiative a new pavement on that street. Now, what taxes does he pay? He enjoys all the privileges of the cottager He enjoys all the privileges of free schools and the free library and sanitary arrangements of this city, and the police protection, everything that the other man does; and what taxes does he pay? This very exemption says that he shall not be assessed upon his $8000; but it goes further and says that he shall not be assessed on the $400 income he gets from it. Now I submit to you, is that condition based upon equity and justice? Some years ago in the Court of Revision when I was present a manufacturer in this city, doing a thriving business, which anyone could see could not be carried on with a less capital than $25 000 or $30,000 a year, appealed against his assessment, and when I asked why, he said "we have no capital in that business" I asked, "How do you run your business?" "We run our business upon credit" And there was no power by which the Assessment Commissioner could tax him for one dollar. I ask you is that condition based upon this broad principle of justice and equity? A few years ago a merchant told me, "It takes $150,000 capital to run my business. If I put that money in my business and the tax collector came round he would assess me for $150,000; do you think I am such a fool as to allow that to take place."

The CHAIRMAN: That hardly has any bearing on local improvements, Dr. Barrick.

Dr. BARRICK: I don't wish to wander, but I read in the 7th clause of the programme that this was an opportunity for discussing local improvements and other matters.

The CHAIRMAN: You see the other subjects have been already before us. We gave particular time to dates for other subjects which we named in the advertisements, and those are closed; but if there is any subject that was not there dealt with, then it is open to-day

Dr BARRICK: If I am not allowed to place the position of the property owner in his assessment and compare it in relation to the other assessments, then I have nothing more to say.

The CHAIRMAN: If what you have to say has a bearing on the subject of local improvements we shall not curtail you.

Dr BARRICK: Of course, then, if that is the position that is taken by the Commission, then the taxpayers of this city—

The CHAIRMAN: I thought you were branching off on the general subject of taxation of personal property.

Dr. BARRICK: I was just comparing the condition of this property owner to others who enjoy advantages, that made it appear there was a great injustice in the matter. Of course if I am not right to do that, I have nothing more to say. I may just say that the Toronto ratepayers—

The CHAIRMAN: As the law stands to-day the person to whom you were then referring was bound to pay his taxes upon the stock if he had $150,000 worth of goods paid for.

Dr. BARRICK: Yes, that is the point, if he had paid for his goods he would have been taxed $150,000, but he says, "I pay $15,000 and I run my business on credit and I tell the tax collector, "although my goods are worth, $150,000 I owe $135,000 on them, and therefore cannot be assessed only for $15,000." That is the point I want to get at.

The CHAIRMAN: There is no doubt at present the merchant who owes upon his goods is entitled to have that debt deducted from the amount of his assessment.

Dr. BARRICK: That is the point I wanted to bring out, and in connection with that point I wanted to bring out another, that this cottager I am speaking of also owes something; he owes $500 on a mortgage and he says to the assessor, "Now, you have allowed the other man to take out from that all he owed, why won't you allow me to deduct what I owe?" The assessor says "Oh no, that cannot be done, you have to pay for the whole value of your property." I just mention that point, that we depart in the assessment, it appears to me, from the basis of justice and equity.

The CHAIRMAN: We have had all that very fully threshed out and what we are on just at present is local improvememts.

Dr. BARRICK: I know that, and of course the property owners have no right to speak here only on what they are allowed to speak upon.

The CHAIRMAN: I understand you think that the local improvement system ought to be abolished?

Dr. BARRICK: I not only think that, but I think and believe that the principle of abolishing all exemptions should be adhered to.

The CHAIRMAN: We are not on that either, to-day. Mr. Hambly represents the same Association?

Dr. BARRICK: Myself and Mr. Campbell are the appointed representatives.

The CHAIRMAN: We waited for you here half an hour on the day on which the subject was up.

Dr. BARRICK: I do not wish to press the matter, only this—

The CHAIRMAN: You must confine yourself as closely as you can to the subject of local improvements, and the question is whether they ought to be abolished or whether they ought not, or whether the system ought to be changed or improved.

Dr. BARRICK: Of course had I known that I should not have come here to day.

The CHAIRMAN: Mr. Hambly told us that two gentlemen were appointed to appear before us. We fixed the time when they were to appear and they did not appear at the time that was named, although they had been invited.

Dr. BARRICK: And by the 7th clause I notice that point "and other matters."

The CHAIRMAN: Yes, but that did not mean we were going over the whole catalogue again. You have too much sense to believe that.

Dr. BARRICK: I do not wish to impose myself on this Commission to-day, and—

The CHAIRMAN: We understand that. We are ready to hear you all day on the subject that is before us or upon any subject that has not been already fully discussed and threshed out. That is the position. You will find us exceedingly patient as long as you keep yourself to the subject.

Dr. BARRICK: Of course if you just rule that I shall speak on nothing but local improvements—

The CHAIRMAN: It is our duty to economize time reasonably and fairly.

Dr. BARRICK: I am at your service. I am only here as a representative, and if the taxpayers who pay nine-tenths of all our taxes and twenty-nine-thirtieths of all our local improvements, if they are not allowed to state their case, why then—

The CHAIRMAN: That is not so.

Mr. WILKIE: Mr. Rowland was here and spoke for some time on the same subject. I don't think you are reasonable.

Dr. BARRICK: I shall bow to your pleasure. Then with regard to local improvements, I say—

The CHAIRMAN: We are very anxious to hear everything that can be said on the subject of local improvements, as to whether it is a just law or not.

Dr. BARRICK: Then in the first place I can only say that the local improvement system is one that places upon the property owner one of the heaviest burdens of any exemption we have to deal with. (Hear, hear.) It places upon the cottager about $4.50 a year for local improvements. It has been stated here in a letter that the property

owners shou'd pay 40 per cent. of the local improvements and the city at large 60 per cent. However, as it is in the city of Toronto, property owners pay twenty-nine-thirtieths of all the local improvements. Personalty in the shape of horses and vehicles, that are responsible for over 90 per cent. of the wear and tear of our roadways, pay three per cent. of the cost of local improvements. The people who use them little pay much. The people who use them most and wear them out most pay the least. (Hear, hear.) That is the position. Now you might say. "How do you get at that? How is it that the property owner pays twenty-nine-thirtieths of the local improvements?" Broadly speaking, the property owner pays two thirds of the local improvements, the city at large pays one-third for flankages, etc. That is, the property owner pays twenty-thirtieths and the city at large pays ten thirtieths. Now, of those ten-thirtieths in Toronto the property owner pays nine-tenths of the general taxes, and therefore he pays nine-tenths of the balance—he pays nine-thirtieths more; and therefore he pays twenty-nine-thirtieths of the local improvement.

The CHAIRMAN: Give me those figures again. You said something about 40 per cent.

Dr. BARRICK: These figures I am not responsible for.

Mr. FULLERTON: Mr. Fleming says the figures you referred to are about correct.

Mr. FORMAN: There are fourteen millions of personalty and income and a hundred and fourteen millions of real property.

The CHAIRMAN: That is about eight per cent.

Dr. BARRICK: Personalty then pays about three per cent. of these local improvements, and personalty in the shape of horses and vehicles I suppose is responsible for 90 per cent. of the wear and tear. It seems to me that this is not based upon justice and equity.

Mr. BUTLER: Is not that personalty owned by the property owners, the horses and vehicles, and for their benefit?

Mr. JOHN ROWLAND: That is not the point involved.

Dr. BARRICK: That won't touch the question, of course; I am speaking of the fact—

The CHAIRMAN: Then you make out that he pays altogether what proportion?

Dr. BARRICK: The property owner pays twenty-nine-thirtieths of the local improvements. Now with regard to what shall be done, it is very much easier to point out that the subject is based upon injustice than to find a remedy. It is a complex question. With regard to that I may just say that a sub-committee was appointed a few years ago to deal with this matter, and the Ratepayers' Association was asked to put their views in writing what they would do about it. Now, I do not wish to take up your time any further. I had hoped that in speaking of the general taxation of the city we might be able to show and to support by the votes of the people that the people—

The CHAIRMAN: Have you some document that you want to put in?

Dr. BARRICK: I do not wish to take up your time. I have a recommendation of the Ratepayers' Association on these local improvements.

The CHAIRMAN: That is what we want.

Dr. BARRICK: I do not wish to take up your time.

The CHAIRMAN: We are very, very patient, while we are on the subject.

Dr BARRICK: I do not pretend that this is going to solve the question, but these are suggestions.

The CHAIRMAN: If you think they will throw any light upon it or give us any assistance at all by suggestion or otherwise, we will be glad to have it.

Dr. BARRICK: Alderman Burns, the Chairman of that Committee, was asked to put the matter in writing, and this is what he said: "We are of opinion that the Council should be supreme in deciding when, where, how, and of what material roadways and sidewalks should be constructed, renewed, and repaired, provided that the cost thereof shall be taken from a general fund obtained as follows, namely: First, a levy at the rate of one, two or more mills on the dollar on the whole assessment to the city, the maximum rate to be fixed by legislation" Now we have a precedent for that, the special rate fixed for the public library by the Legislature. "Secondly, a levy of a special tax upon horses and vehicles of every description in general use in the streets of the city."

The CHAIRMAN: Those horseless vehicles, what would you say to them?

Dr. BARRICK: "To levy a special tax upon horses and vehicles of every description in general use in the streets of the city. Each ward shall be entitled to a percentage of

this fund equal to the percentage it contributes to the total general taxes during the year. That will prevent a ward levy. It will place each ward as if it were a municipality. The balance of such allotment after the payment of the rebate to those who have put down sidewalks under the local improvement system may be extended in the manner prescribed by the Council. The rebate to each owner who has paid for or is paying for the roadways and sidewalks shall be equal to the amount levied on him for the general fund for the number of years on the property affected, and the rebate shall be continued each year during the life of the roadway and sidewalk as recommended by the engineer and confirmed by the Council."

Mr. JUSTICE MACMAHON : That is, if the local improvement system as it at present exists is abolished, then during the continuance of that special tax the special tax-payer is to get a credit on his general taxes until the time has expired ?

Dr. BARRICK : Yes. In that way there will be a fund to keep in repair our macadam roads that have been always neglected because the Council say there is no fund for keeping these in repair. Now, that should not shut off anyone from putting down a special pavement. Suppose for example the Council decided that on a certain street with a certain assessment, that a macadam road was what they thought to be best for that condition, and if the owners on that street said " No, we will not have a macadam road, we want an asphalt pavement," then there should be enough elasticity, if the people on that street were willing to pay in that one year the difference between the roadway that the Council have recommended and what they want specially, that would obviate any issue of debentures for that particular street or for that particular work. There would be a sufficient elasticity, and there would be an inducement to have good roads. Take Jarvis Street for instance. Jarvis Street I suppose is about paid for. The time will come when that street will have to have something done to it, perhaps. Well then, the property owners, if they say, " Now here, you say that the lifetime of this pavement has expired, and we will not get this rebate any longer, but we are willing to pay that, because it will be only a trifling cost to repair the surface, to put that in first-class condition again, and receive the rebate that we have been having." It would offer a certain amount of elasticity. Personalty in the shape of horses and vehicles, I presume, is responsible for at least 90 per cent. of the wear and tear of roadways, yet all the personalty of every description assessed in this city contributes only about 3 per cent. of the cost of constructing roadways under the local improvement system. Therefore from the generous taxpayer's standpoint it seems reasonable that a moderate tax should be imposed on all horses and vehicles in general use on our streets, and that the sum so collected should be added to the general fund for roadways, and further, from the standpoint of owners of horses and vehicles it should be acceptable, because the small amount that is contributed would be more than made up in saving of repairs and time and the increased comfort and convenience of riding or driving over better roads. I will be very glad to do my best to answer any questions you may ask.

Mr. WILKIE: You say the present law is unsatisfactory, and you advocate a change in that law by allowing certain credits of local improvement taxes upon general taxes, and by a tax upon vehicles and horses ; now, have you any other suggestion to make ? I was waiting for some other suggestion besides that, because those are not of very great importance, neither of them, as compared with the general subject. Who has the control of the local improvements ? Who is to initiate them ?

Dr. BARRICK : That is as perfectly clear as words can make it ; (reading) " We are of opinion that the council shall be supreme in deciding when, where, how and of what material roadways and sidewalks shall be constructed."

Mr. WILKIE : So that the local owner would have no say in the matter ?

Dr. BARRICK : Only in this, that if they decide a certain locality should have a brick pavement or a gravel road or a macadam road, and the property owners upon that street say, " That is not good enough for us, we want to have an asphalt pavement," then they would be able to have their asphalt pavement if they paid the difference in the price between what the council had recommended and the more expensive one that they wished, and to be paid in one year, so that there would be no second debentures running with regard to that part.

Mr. BUTLER : Make the whole payment in one year ?

Dr. BARRICK : Yes.

Mr. JUSTICE MACMAHON: To pay a frontage on Jarvis street in one year would be pretty heavy.

Dr. BARRICK: That is very true, but they need not pay it unless they wish; they need not have an asphalt unless they wish: but it would obviate the necessity of a second lot of debentures running along for a number of years. Of course that is a matter of detail.

Mr. MACPHERSON: Who is to decide about getting the asphalt pavement? The majority of the taxpayers? Suppose they say they are not pleased with the pavement adopted by the council and they say, "We must have an asphalt pavement," how many would be required to get that carried through?

Dr. BARRICK: I think just the same law that prevails now. Of course that is a matter of detail when the principle is once established.

Mr. JUSTICE MACMAHON: What Dr. Barrick wanted to abolish was the incurring of a debt by the city in relation to these special local improvements for which debentures would have to be issued.

Dr. BARRICK: Yes, that would do away with the disgraceful scenes that we have every year wherever there is a roadway to be constructed, where you have the contractors that put down the brick pavement and the contractors that put down other pavements soliciting and badgering the property owners for this one or for that one. It would leave that whole matter in the hands of the council to settle. That is the evil at the present time, that on a street a person who has no interest whatever is induced by the contractors for the brick or other kind of pavement to get that particular kind of a road. The council should, I think, be supreme in that.

Mr. JUSTICE MACMAHON: A great deal of difficulty is overcome in the States by commissioners, the city having nothing to do with the improvements except providing the necessary means of obtaining them.

The CHAIRMAN: Like the School Board?

Mr. JUSTICE MACMAHON: Like the School Board. The three Commissioners outline what is to be done.

Mr. MACPHERSON: Are these commissions usually worked honestly?

Mr. JUSTICE MACMAHON: Oh yes, they are found so in the States. Chicago had to adopt that in order to get rid of the disgraceful jobbery existing, the log rolling amongst the aldermen.

The CHAIRMAN: Who would appoint them?

Mr. JUSTICE MACMAHON: I don't know.

Mr. BUTLER: Elect them if they could.

Mr. JUSTICE MACMAHON: In the District of Columbia they were appointed by the Federal Government.

The CHAIRMAN: Has your Association been in existence for a long time?

Dr. BARRICK: I may say, as I stated before, we feel that taxation——

Mr. JUSTICE MACMAHON: The Chairman wants to know if your Association has been in existence for a number of years.

Dr. BARRICK: I just want to answer that question. We know that these exemptions that are there were introduced one by one, and it was in 1892 first that The Toronto Ratepayers' Association sent a deputation before the Municipal Committee of the House to protest against another exemption they brought up, and the injustice was shown to be so clear that the Government then appointed a Commission to inquire, and which did inquire and report upon the whole matter.

The CHAIRMAN: Yes, we know all that.

Dr. BARRICK: Very well, the Association has been in existence since that time, and in 1893, in 1894 and 1895 they appeared before the Municipal Committee to stem the tide of exemptions that were pressing upon property, and in 1898 the broad question was submitted——

The CHAIRMAN: Is there a large membership?

Dr. BARRICK: There is not a large membership at present.

The CHAIRMAN: I ask these question in order to have some idea of the importance of the body which you represent.

Dr. BARRICK: I do not wish to base my arguments upon the size of any organization;

I wish to base my arguments on justice and equity, whether it comes from one man or whether it comes from ten thousand.

The CHAIRMAN: Oh, I thought you came here to represent this Association.

Dr. BARRICK: That is right, but I do not press what I have to say upon the size of any organization.

The CHAIRMAN: I did not say you did, but I wanted to know, if it was possible to ascertain, what number of persons there were who held those views.

Dr. BARRICK: I may just say this, I am not here to express my own views by any means, but I may say that the Association at one time numbered about 400, and in its strength, then it was it laid down those principles that I have put before you to-day, and those principles were endorsed year after year, and those principles were brought before the Council in the year 1898, when they submitted the question to the people, "Are you in favor of the principle of abolishing all exemptions?" with the result that in every ward more that two to one, over 11,000 of the citizens endorsed the principles of the Ratepayers' Association.

Mr. GEORGE C. CAMPBELL (Barrister): Mr. Chairman and Gentlemen of the Commission, probably an apology is due from me in reference to Mr. Hambly's appointment which was made one day last week. Without the knowledge of Dr. Barrick or myself, he appeared before you to see when the matter of exemptions would likely be heard, and he communicated with me between ten and eleven that night, and my engagements were such the next day that it was utterly impossible for me to appear, and apparently he gave no word to Dr. Barrick, therefore no one appeared here. I certainly feel as though to a certain extent I was guilty possibly of a slight want of courtesy not to have got word, but I couldn't get word to Mr. Hambly in time to have this representation made to the Commission. That is the reason why we did not appear here last Saturday as Mr. Hambly had arranged. On the question of exemption, Dr. Barrick has laid before you the views of the Toronto Ratepayers' Association. Those have been the views of the Association as promulgated in 1897 and 1898, and then again before the Committee of the City Council, of which Alderman Burns, I believe, was the Chairman. Broadly stated, those views really advocated the abolition of the local improvement system. That system we have seen in almost all its ramifications in the city of Toronto, and of course the remarks that Dr. Barrick has made and those that I desire to make will bear largely in connection with the city, because it is here our experience has been and it is here that we reside. Now, the first point I might state would be this, that we think the local improvement system is inefficacious. It does not achieve the object which is really desired, and that I take to be this: Take Toronto. It seems impossible that the city should be provided throughout with good streets at a reasonable expense. The dear knows our debt is heavy enough and the burdens of the property owners are heavy enough to have good streets, but we have not got them in important places, whereas in other places we have good streets where there is scarcely any traffic upon them whatever, and that arises principally from natural causes. Throughout the city during the last few years there were great changes in the shifting of the centre of trade, so to speak. The result has been that business property in certain streets, such as Queen Street, or Yonge Street north of College Street, and some of those streets, have suffered very severely from depression. During that time the assessment has been high upon this property, and the burden of the local rates has been heavy, and the result is that, whereas five years ago Queen Street should have been a good street, on which there is very large traffic, it was only last year that the asphalt pavement was laid down. The result is that College Street, that ought to have been re-paved four or five years ago, is to-day in a state that would disgrace the worst town in the Province of Ontario, and I say that and I believe that to be the case. No man can ride a bicycle were it not for the accident of the fact that the street railway have a permanent roadway—a narrow one, it is true—in the middle of the road; but on the sides of that street it is practically impassable. Now, what has brought that about? I say that the local improvement system is the reason, is the foundation of why it is that we have bad streets where we ought to have good ones to-day. And for that reason I say it is inefficacious, and the property owners are heavily taxed by the general taxation: they probably have a sewer rate to pay in addition, then probably some of them have extension rates to pay, and they do not feel that the rents they are able to obtain from the property, or if the man lives in it himself his circum-

stances will not justify incurring the expense of laying down a pavement that is a benefit to himself and the whole city These facts will bear out the statement that it does not furnish the good streets that we should have in the centre or thoroughfares or many streets that should be supplied with good roadways. Then there is another feature about that system and it is this, that it is divided up—contracts are let on parts of a street at a time. The result is that the letting of the contracts for the laying of pavements are broken up into small sections. I can instance one street. Take Brunswick Avenue. A pavement was laid from College Street to Ulster Street, that is one block ; then after two or three years of contest between the property owners as to whether they should have a new pavement or not and what it should be composed of and what it should not, it resulted in the property owners from Sussex Avenue to Bloor Street putting an asphalt pavement down. There was a contract then from Sussex to College, a new contract from Sussex Avenue, and finally the property owners from Ulster to Sussex have laid a pavement there. The result was that the contract that should have gone in one piece at a reduced rate—at least it was only reasonable to suppose it would be a reduced rate and the street laid at once—it was laid in three sections. That is only an instance of what occurs throughout the whole city from time to time, so that I think in that way the city is put to greater expense than it would be where the contract is let by the council or by the city at large and pavements laid where they ought to be, where the requirements of the city render them desirable from time to time. That results of course in extravagance, for this reason, that the pavements are not laid as economically as they should be. Then there is another feature still with regard to the question, and it is that it is oppressive on the holders of small properties. You take a man who owns his house—and if I may say so, there is no more laudable ambition to find in a workingman or a mechanic than a desire to own his own house, I think it is one of the greatest benefits this country enjoys, as it is one of the greatest detriments to the very large cities that the worker does not own his own property or his own dwelling place ; it certainly is something that is desirable, from whatever point of view we look at it, and I think any system of taxation which has a tendency to discourage the acquisition by a labourer of his own home is not to be encouraged, and the local improvement has that tendency. For this reason : No house that a man can live in can be erected on less than from fifteen to twenty feet of land. The local improvement rate is a tax on that fifteen to twenty feet of land, irrespective of what the depth of the property may be. A man may have a house on that land that may cost $500 that a mechanic can live comfortably in Take in New York City. I know houses erected on twenty or twenty-five feet of land that sell for from $20,000 to $25,000 Under that system that house pays no more taxes than a workman's home erected on twenty feet of land. The result of that is oppressive on the small property owner, the man on whom taxes should be light. It is a system that renders it heavy. Then we find that in addition to that he has sewer rates, which is part of the local improvement system, he has extension rates, possibly, which is another part of the local improvement system, and often property which ought to be valuable, which ought to be income-producing, really brings forth nothing. These reasons, which I have endeavoured to state as shortly as possible, have forced The Toronto Ratepayers' Association to come to the conclusion that it is a system that should not be continued, at all events so far as the city of Toronto is concerned, and the larger cities grow the more they will suffer from the same system as Toronto has suffered from in the past. The circumstances of Toronto if carefully studied in connection with this subject will show that it is not a system to be encouraged, because it does not provide the streets that we should have, at the times that we should have them, in the interests of the whole people ; because it is often of greater interest to a man that lives on a quiet street that a good pavement should be laid on the leading thoroughfares to his house than that a first-class pavement should be on his own street, especially if that man rides a bicycle ; or if he drives a horse he will realize that to be the fact—certainly visitors to the city will realize that to be the fact, and those permanent streets which are in a disgraceful state have a tendency to bring disgrace upon our city. In addition to that, it is extravagant ; and in addition to that again it is oppressive on those who should be lightly taxed, if any people in this world are to be lightly taxed. There is another feature that I did not think of at the moment, and it is this : I think it contributes to corruption, and for this reason, that under that system property owners on the street can pave a single block, as I have shown you by actual facts in this city

There may be a few property holders in that street. We have rival contractors and a fight going on for a year or two years as to the nature of the pavement to be laid, and that fight really comes down to a contest between rival contractors, one who desires probably to obtain the contract for his class of material, and another who desires to obtain a contract for his class of material, as the case may be. We find sometimes that the vote will be very close amongst the property holders in that street, and in that case it is in the interests of the contractors to endeavour to influence by means which should not be employed to obtain a contract or a decision in their favour. Cases have been mentioned. I am not in a position to say it is the case, but I put the facts before you to show that the way is clear, that the means of doing it are easy, and I say for that reason I do not believe it should be encouraged. Personally I feel that it is a branch of the law that requires careful consideration. We all recognize the difficulties. We know that the question of assessment is probably as difficult as any question that could have been delegated to any set of men, and I commend to you the views which I have endeavoured to express as shortly as possible, representing the Ratepayers' Association.

The CHAIRMAN: What would you substitute for the present system?

Mr. CAMPBELL: Taxation at large, by the City at large.

The CHAIRMAN: General taxation?

Mr. CAMPBELL: Yes. I might say that I have a resolution of the Ratepayers' Association that is substantially against the local improvement system.

Mr. JUSTICE MACMAHON: They make provision for the abolition?

Mr. CAMPBELL: Yes, they go further then and say it should be done in this way in certain cases

Mr. JUSTICE MACMAHON: They recommend in the event of abolition that measures be taken for carrying out the change of system?

Mr. CAMPBELL: Yes.

Mr. GEORGE WELLINGS: (Austin Ave, east of the Don): As a small property owner and wage earner I would like to say something on this subject. I am opposed to the local improvement rate, and for this reason: When the local improvement rate was instituted I found it bore heavily on the small property owner; and it caused me to investigate the workings of the system, and I found this, that you take say 117 feet at the corner of Queen and Yonge Street, it is assessed for $180,000, whereas Queen Street on both sides, east from the River Don to the Grand Trunk Railway track, the whole of both sides of Wardell Street, the east side of Hamilton Street, and the west side of DeGrassi Street—it takes all that to make $180,000 worth of land values. I found that on this 117 feet at the corner of Queen and Yonge Street there was about $140 per annum of local improvements, while on that large area that I speak of over the Don, of equal land values, there was over $3000 per annum paid by the small property owners. Now, since the depreciation of land values over the Don and the rise of land values in the centre of the City the thing is worse, that is, there is a greater disproportion of local improvement rates. For instance, 55 feet at the corner of King and Yonge Streets is assessed for $180,000; so fifty-five feet is equal in value to a mile and a half of streets or thereabout over the Don. Of course the improvements that we had over the Don were mud roads, wooden sidewalks, and on Queen Street between the Grand Trunk Railway track and the Don was what you call a cedar block pavement, of which the street railroad paid one-third; so you can see that had the street railway not been there the amount paid by the small property owner would be still more. Speaking from the standpoint of the wage earner I want to say that to assess personalty or horses, as Dr. Barrick has mentioned, would be making it worse for the wage earner and small property owner, for this reason: A manufacturer, no matter how much taxes you put on his personalty, will add it to the expense account and it will be added to the price of his goods, so that if you tax his heavy dray he will simply put it on the goods. The storekeeper adds the price of his taxes to the goods that he sells, and the poor wage earner has no one to shove it on to, and therefore he has to buy the goods at the man's cost, and if he rents property the landlord simply adds his taxes to the rent, and the poor fellow has to pay the whole lot. So that when people talk about paying taxes, you know there is nothing in it; they do not pay the taxes. It is a most remarkable thing to me to see in this Commission these learned counsels with very high fees appear before you asking for time and putting their pleas for the insurance companies and other corporations, but I never heard anyone suggest

that the man who paid the taxes, the wage earner, was interviewed or had time to put in his statement, or any trouble at all about it. He has no say in this matter at all. We are the ones that are going to fix this thing for him. He is a poor, honest sort of fellow, and he expects those above him, who are making the laws for him, to do it in his favour. He has not wakened up yet to the fact that they do not do it, but he will one of these days. I speak for the wage earner, and we look to this Commission to see that our interests are not neglected. We are the multitude of the people, and if we fail, all the rest can go, there is no use for them ; they depend on us at the last ; we carry the lot ; and I would sincerely ask the Commission not to forget that in the ultimate the working man pays the taxes, and that the concentration of the taxes upon the land value would free land for him, and in doing that you would elevate him, give him a chance to live, and make this country worth living in ; you would treble the population in ten or fifteen years—in fact you would set an example that would be followed by the whole world and we would have peace and plenty without the attempt upon the part of any portion of the community to evade their fair share of taxes.

Mr. JOHN ROWLAND : I would give you an example of what the local improvement came to on one small property in the city of Toronto—I won't mention the locality—but there was one asphalt street running north and south and the other east and west, and this small brick cottage on the corner of those two streets, that would not rent for more than $20 or $25 a month at the very utmost, the local improvement on that property was $20 a month, or $240 a year.

The CHAIRMAN : For how many years ?

Mr. ROWLAND : That was for ten years it paid $20 a month local improvement taxes alone. There is another street in the City of Toronto now, it is one of the smallest blocks in the city, there are only nine property owners in that block, the property is of a very inferior character, but they wanted a concrete sidewalk and they managed to get those property owners to petition for it and carried it, and it will be done. The other three went against it, but they got the necessary two-thirds. That just emphasizes what Mr. Campbell has said that these small blocks should not be taken separately. If they had taken the entire street they could not have got it, but they just took this where there were those property owners that went for it and of course it has to be done.

The CHAIRMAN : Have you any objection to tell us where that corner cottage was or is?

Mr. ROWLAND : Well, the party told me, I don't know that there is any objection—it is on the southeast corner of Jarvis and Bloor streets. It is a very old-fashioned brick cottage. I suppose I am not saying anything wrong in telling. The local improvement is now paid for I believe. One gentleman asked me if there was much vacant land. Well, it just occurred to me it was not vacant land, but it might almost as well have been vacant land. But supposing it had been vacant land, supposing some unfortunate wretch had succeeded in acquiring that land some years ago, a poor man for instance had bought it when it was low and he had put ever so small a cottage on it and he could not afford to pay the taxes at all.

The CHAIRMAN : The vacant land in connection with that cottage is about the size of this room.

Mr. ROWLAND : It would have been taken from him, he would have lost it completely. Now I am not advocating the exemption of vacant land, but a gentleman I met yesterday told me he had a property on Queen street the taxes on which are $700 a year and his rents enabled him to meet that amount. Supposing that property was burnt down, if all the taxes were put on land he could not afford to rebuild the property and he would not have anything to pay his taxes with and in consequence he would lose the land.

Mr. WILKIE : Did that gentleman apply for that local improvement, or either of them ?

Mr. ROWLAND : I couldn't say.

Mr. WILKIE : It must be a very large lot because it has an exemption of sixty feet on Jarvis street.

The CHAIRMAN : It is 120 feet deep. I owned the adjoining property for some years myself.

Mr. ROWLAND : I don't know the size of the lot.

Mr. MACPHERSON : Your contention is that as the law stands at present six people combined can work an injustice to three?

Mr. ROWLAND: Exactly so. I am satisfied that if that entire street had been taken they could not have carried it. There is another thing, and that is, I think that it is very much easier for the assessor to go round and take the assessment as it stands on that property, and because they see the property, and it is perhaps a little more trouble for them to go to a separate man and ask him to find out what is his income, therefore it seems to me it may be to the interest of the assessors to keep the system just as it is, as much on property as possible, it is so easy—there is the property that is worth so much, and they put it down and go their way.

Mr. W. A. DOUGLASS, M.A.: Some objections I have heard to local taxation this morning possibly refer more to the details of local taxation rather than to the principle itself, and when it is suggested that the whole affair should be left in the hands of the Council, it brings to our recollection some things that took place in the City before we had local option. We can easily remember that certain streets were left in very good repair at the expense of the general public, where some of the Councillors or their friends happened to own property, and where in consequence they could get much better rentals, because they happened to have control of the Council. And then as to the bribing of the people by the contractors, do we never hear of bribing Councillors by the contractors? I sometimes wish that some of the people on streets had something to say about some of these things, and I would very much rather the people had a great deal more control over some of these things than they have to-day. I am a thorough believer in the matter of direct legislation so that the people themselves would have a great deal more control of their expenditure and of their legislation than they have at the present time. Now as to a great deal that has been complained of as the poor property owner—I am referring to the man with the small cottage—there is a great deal of truth, and that has been very well put forward by Mr. Wellings; but if we take the case of King Street and Yonge Street, where we see streets running for a mile or perhaps two miles, we find at the corner of King and Yonge Streets the highest assessment is $3000 per foot, and the highest price I heard taken for land there was $4000; whereas we can go to the north part of Yonge Street and there land is assessed somewhere in the neighbourhood of $100 per foot. Take King Street and go eastward or westward from Yonge Street and we find for some distance that the land is assessed at about $100, or about a thirtieth of what it is at the corner, and yet when we come to local improvement the charge is just as great on the land assessed at $100 as it is on the land valued at $3000 a foot. That is one of the objections, perhaps, not to the system but one of the details. Some regard should be had to the value of the land, because when we make a street we do so in order to make traffic exceedingly advantageous to the City. The land in the centre of the City reaps ten or twenty or thirty times the advantage from that street that the man does on the outskirts, so that the objection that was made by Mr. Rowland against local improvements does not refer so much to the local improvement system as to that detail of the system.

The CHAIRMAN: How do you say—that the man whose frontage is worth $100 a foot pays as much as the man whose frontage is worth $3000?

Mr. DOUGLASS: On the local improvement system he is charged so much per foot frontage, the same in the centre of the city as in the outskirts of the city for the same purpose.

Mr. WILKIE: Suppose he puts down his own local improvement?

Mr. DOUGLASS: If he puts it down himself that is a matter of his own concern, but here where the city is doing it and where the multitude is doing it and where one man is that multitude reaps twenty times as much as the other, he should pay according to that advantage.

Mr. BUTLER: The cost of the work is based on the frontage.

Mr. DOUGLASS: That is very true, but we should have the taxation not according to the frontage but according to the advantage of that frontage, so that the man who reaps the greatest advantage should pay the greatest rate.

Mr. WILKIE: He should carry another man's burden?

Mr. DOUGLASS: Oh no, no, no. My dear sir, if I own land in the centre of the City of Toronto, and the city makes streets there and makes all the appliances of the city there, my land becomes worth $3000 a foot, and yours away up Sherbourne street does not exceed perhaps $100 or $150 a foot. Another of the details in this matter of local improve-

ment I felt some years ago, which was an injustice. I was owning property on a street in which a great deal of traffic went through from east to west, and because we were improving the street we were subject to a tax for making a highway for a very large section of the city. That is another of the details that ought to be taken into consideration. Another detail about this local improvement, for which so far no consideration seems to have been given, is this: We know very well that a few years ago a host of speculators found here a happy land where they were hunting for profits without improvement, and on the outskirts of this city they took advantage of that local system, and I remember the time when in conversation with Mayor Clarke he called my attention to it and he was fighting against it, and the injury it was working, the control it gave to these parties to build streets and get the city appliances so that they gradually built all the appliances of a certain city on the outskirts of this city, then that their speculation put a large portion of the taxation on the centre portion of the city which did a genuine business, and that was one of the sources of severe depression we had in this city. The local improvements certainly had a great influence that way in offering temptation to people to incur expenditure and get bonds issued for which the city was to be liable, and the cost of that speculation eventually fell upon the general business which had no speculation. That was one serious disadvantage of the local improvement system.

Mr. FLEMING: The council could stop that at any time.

Mr. DOUGLASS: While that is true, Mr. Fleming knows as well as I know that a large majority of the men in the council at that time were themselves directly interested in that speculation; so that when Mr. Fleming speaks about the council having control of it, certainly the council had control, but they themselves in a great many cases were working for their own interests In that sense I complain, because as long as the law puts a temptation there for us to take advantage of we all take advantage of it. I do not blame any man for taking advantage of the law; I blame the law for being put there. Now, suppose we have a few houses on Yonge street that want sidewalks and improvements, but there are a few men there that do not want improvements; are those people to be blocked? There should be some way whereby they can get a granolithic sidewalk for a block or half a block; so that I do not object to a few people having that control under certain circumstances, and there may be limitations, though I am not prepared now to say what those limitations ought to be. The advantages of every man owning his own home have been pointed out here. I fully believe this, that a well-regulated and properly-taxed society every man would own his own home. I would just ask the possibility of men owning their own homes to-day in this city with the taxation as it is? If we look at the assessment of this city, the assessment of Detroit, New York, and of London, England—

The CHAIRMAN: Do you say that the local improvement system is a hindrance to this?

Mr. DOUGLAS: No, the hindrance is in assessing for the local improvements. It is not the local improvement itself that is wrong, but the method of taxation for local improvement.

The CHAIRMAN: You mean the per foot frontage?

Mr. DOUGLASS: The per foot frontage instead of per value.

Mr. JUSTICE MACMAHON: They have a local improvement that runs through the city for half a mile, and where a man's property, so far as the improvement itself is concerned, is of the same value, putting it down at the same cost there as half a mile at the other end of the street, you would allow him to get that improvement made at one-quarter of the cost that would be taxed against the man at the other end where the traffic was greater?

Mr. DOUGLASS: In assessing for the local improvement on Yonge street I would put down the value of the foot frontage on Yonge street at say King street; it is assessed for $3000 now; the man up hear Yorkville is assessed at about $100; put down his assessment at $100 a foot. Assess each man then according to the value of his frontage.

The CHAIRMAN: The man at Bloor street should pay one-thirtieth; that is your view of it?

Mr. DOUGLASS: Yes.

The CHAIRMAN: But there is no objection in the case of a larger street where values are the same the whole length, of applying it per foot frontage?

Mr. Douglass : No.

Mr. Pratt : The cost to both places is the same ?

Mr. Douglass : That is very true.

Mr. Pratt : How would you do it ?

Mr. Douglass : According to the value.

Mr. Pratt : The whole cost should come out of that property anyway ; the sidewalk in front of the cheap property costs just as much as the sidewalk in front of the dear property.

Mr. Douglass : I don't think you catch my meaning. 20 feet at the corner of King street would be twenty times $3,000, that would be $60,000.

Mr. Butler : You would really wipe out the whole local improvement system and assess it over the whole municipality ?

Mr. Douglass ; No, I don't think so.

Mr. Butler : That is what it would mean.

Mr. Douglass : I don't think so. The local improvement I understand to be this, that the people in a certain neighbourhood have a certain control in having a certain kind of improvement.

The Chiarman : Some in the same street would want an expensive one and some of them a cheap one, and they could have the advantage of that.

Mr. Douglass : I would have no objection in allowing them certain liberty that way.

The Chairman : Put that out of the case, then the local improvement system might be wiped out altogether and everything done upon the general rate.

Mr. Douglass : If it was done on a general rate in a sense I would have no objection, providing each assessment was in proportion to the value of the land occupied.

The Chairman : Apart from improvements ?

Mr. Douglass : Oh, yes, apart from improvements.

The Chairman : Then your single tax proposition would come in there ?

Mr. Douglass : Yes. I just wanted to point out to these men who are interested in men owning their own houses that in consequence of our system of taxing houses, all men cannot own their own houses, and as the city gets larger, a larger number of people go without homes of their own, and in our system that must inevitably take place. Take the assessment of any city that I am acquainted with, possibly excepting London, and in a great many cases the assessment is of the land and all that is on the land. Now suppose I am the owner of a piece of land where the city is growing. A host of people come there and put up buildings and stores—

The Chairman : I am afraid you are going off the subject.

Mr. Douglass : Well, as others took pains to point out that desirable thing, I was going to show how it is our system of assessment produces that deplorable result, that as our country became more populous, our towns became more wealthy, a smaller and smaller proportion of people own there own homes, in spite of all those charitable methods adopted by Mr. Chamberlain and the expedients adopted by other parties. My own preference would be in place of local improvement to give the citizens a local option altogether as to taxation, then let the people themselves study what taxation means and where the taxation bears, and eventually they will evolve a good system.

The Chairman : What would be your basis of representation, franchise, in such a case ?

Mr. Douglass : I would give every man a vote unless he proved himself a criminal.

The Chairman : Whether he possessed any property or not ?

Mr. Douglass : Oh, my dear sir, yes, and the smaller the property I would give him a bigger vote. (Laughter.) The power of one man to-day with a million dollars is as great as a million men with all their votes.

The Chairman : And you think that a fair and just system of taxation would be the result of such a vote as that ?

Mr. Douglass : It is the people who must evolve a righteous system, and at the present time we are hindered this way : In the City of Toronto this matter of taxation has been discussed more than in any other part of Ontario, perhaps ; there is more intelligence here on the subject of taxation than in any other place in this Province ; now if at the present time in the City of Toronto we want to adopt a wise system, we are

hampered by every little village, every little Council, every little parting of the way. We in Toronto see the disadvantages of our present system of taxation perhaps more than any other part of Ontario. The larger a city grows the worse becomes the evidence of a bad system of taxation.

The CHAIRMAN: What would be good for Toronto would be good for the rest of the country?

Mr. DOUGLASS: That is very true, and I would be very glad if they would all adopt a wise method; but why should we be hindered in adopting a wise method because Bobcaygeon wants a bad one?

Mr. JOHN ROWLAND: I would like to reply to one statement Mr. Douglass made. He said the man owning a million dollars had the power of a million poor voters. I think he stated something like that.

Mr. WILKIE: A figure of speech.

Mr. ROWLAND: It was a figure of speech, but I would say a little on the other side. I met a gentleman one election day who mentioned a celebrated character, and said, "He will influence the election to-day twenty times more than I shall; I pay between six and seven hundred pounds a year taxes and I have one vote, but that individual with a few glasses of whiskey will bring up twenty or thirty votes." That was a poor man.

Mr. MACPHERSON: It was the spirit that moved them.

Mr. A. J. ROEBUCK: I would like to agree with Dr. Barrick when he says that the basis of assessment should be justice and equity, and I would further agree with him when he condemns exemptions; but I would go further than Dr. Barrick and condemn all the exemptions, and above all I would condemn the exemption of monopolies, the exemption of the greatest monopoly, the monopoly of land and franchises; and I would say to Dr. Barrick that though he might possibly be disinterested in appearing before this Commission, there have been other disinterested gentlemen here too, and I think every day we have gentlemen from every walk of life—manufacturers, clergymen, labourers and capitalists, speaking in a way against their own interests, if it can be against the interests of a man to speak the principles of justice. I would like to make a few remarks on the subject under discussion to-day. It has been the custom of municipalities to grant bonuses and exemptions to manufacturers to induce them to locate in their particular localities. Now this is not only giving an unfair advantage to new industries over old, but it has raised the taxes generally throughout the community. But, it is, argued, these industries build up and improve the town, and it is only fair to ask the citizens to pay for them. But they miss this point, that whereas the building up and improving the town can at most very little if at all increase the interest on capital or the wages of labour, it does most materially increase the value of the land, and to tax the labourer and the capitalist purely for the benefit of the landlord is absolute robbery. But if you wish to offer an inducement to capitalists seeking employment, if you wish to give a real stimulus to labour, you should throw off all taxes on improvements and industry and proportionately increase the taxes on land. Now look at the effect of a tax upon land. Tax the selling value of that land, and it would therefore be that much cheaper for the manufacturer to commence business in this town, while he may build and improve and beautify to his heart's content without the fear of an increased fine; and it is for the liberty of municipalities to experiment along these lines that I would most strongly urge the most favourable consideration of this Commission. It is by experiment perfection has been made in every branch of learning. It is by experiment that our Post Office system has reached its present development, and by every change and improvement made in our volunteer system we have such an efficient corps to-day. What reason is there why municipalities should be allowed to experiment along the lines as to construction of roads, the construction of buildings, public lighting, and public waterworks, and be restricted as to taxation? One is as much their business as the other. Were one city to adopt a system of taxation more advantageous than another, other cities would have to change theirs to keep up with that competition.

The CHAIRMAN: You are going to apply what you are now stating to the question that is before us?

Mr. ROEBUCK: I understood by the programme that it was municipal——

The CHAIRMAN: You misunderstood the programme. We are not going to take up subjects on which we have been engaged the last two weeks.

Mr. ROEBUCK: But exemptions and local improvements and any other subject relating to municipal taxation, which a person may desire——

The CHAIRMAN: Other than those which have been above specified. We have disposed of the subject of exemptions.

Mr. ROEBUCK: Then I think local option comes under this heading, does it not? Local option for towns to experiment along these lines?

Mr. JUSTICE MACMAHON: Local option and local improvement.

The CHAIRMAN: That would be open to you.

Mr. ROEBUCK: Were the city of Toronto to adopt the system of taxation I advocate for the bonusing of industries——

The CHAIRMAN: I thought you had come to the end of that subject, but you can resume it if you like.

Mr. ROEBUCK: Merchants would leave Montreal and Hamilton to come here to escape their taxation; and the same principle applies right straight through. If you tax dogs there will be fewer dogs; if you tax windows there will be fewer windows; if you tax buildings there will be fewer buildings; if you tax industry there will be less industry; and if you tax land speculators there will be fewer drones. So in the case I propose, Toronto would have the industry, the manufactures, the buildings and the improvements, and Montreal and Hamilton would have the speculators in land. I would most strongly urge upon this Commission that they advise the Ontario Government to grant us a local option in taxation, that by a general, gradual and careful improvement, one place competing against another, a perfect system of taxation may be obtained.

The CHAIRMAN: You have very little confidence in the Commission, then?

Mr. ROEBUCK: I don't say that exactly.

The CHAIRMAN: It is generally supposed the Commission is going to evolve a panacea for all the ills of taxation.

Mr. ROEBUCK: I have certain confidence in this Commission, and if the Single Tax hadn't had confidence they would not have had two or three men representing them every single day that this Commission has sat.

Mr. JOHN ROWLAND: They thought it necessary, because it was a bad cause, that it should be represented by a great many.

Mr. ALAN C. THOMPSON: With regard to local improvement taxation, I presume that this is a rough attempt at justice. The principle laid down by the advocates of this local improvement system is that the property benefited by taxation should pay its share. That principle is sound. But now that has been found, in actual working, impossible to determine what property is benefited by a particular improvement. For example, we built at considerable cost a bridge at the head of Sherbourne Street over to Rosedale. I believe the property of Rosedale was largely made to contribute to pay for that bridge. Now it seems to me that if it was a public improvement the city of Toronto generally would probably be as much benefited by that bridge as Rosedale, inasmuch as it enabled traffic to come into the heart of the city which otherwise would have been diverted into another direction. The same principle applies to roadways, as Mr. Douglass has pointed out A roadway on a long street like Yonge Street, would have a great advantage on the lower part where the bulk of the business is done, more than it would on the upper part where a good road practically enabled business to pass them. To illustrate the point by an extreme case, if the road had been almost impassable persons would naturally drop off and do their business with the stores higher up Yonge Street.

The CHAIRMAN: Where the road was good?

Mr. THOMPSON: No, what I mean is that if it was difficult to get down town they would only do business in those stores, and the more you increase the facilities for getting down to the heart of the city the more business would be done by the heart of the city and the less by the outskirts, the result being that the outskirts, as far as the business is concerned, will depreciate in value and the centre will increase in value. Consequently, I think it would be much better to abolish the local improvement system entirely and levy on the whole city on the land value only; you would then get the full value——

Mr. JUSTICE MACMAHON: That is the only equitable way, to levy on the whole city.

Mr. THOMPSON: But on the other hand, if you don't do that, then do the whole city at once and levy the cost of it according to the value of the land on that particular street. That is the only suggestion on that line that I will make apart from the entire abolition of the system.

Mr. JUSTICE MACMAHON: Take Spadina Avenue—there are many portions of it that are residential properties. The benefits resulting to these are very slight in proportion to what the mercantile community enjoy by reason of the local improvement, and in fact the whole of that street is more used by the general public of the city than by the residents in it, and the whole city enjoys the benefit of it, at a very great expense to those who made these very expensive improvements in the way of granolithic pavements twelve feet wide and laying down an asphalt road over a very wide street.

Mr. THOMPSON: Quite so, and that is our position; but as a matter of fact the local improvement system should be entirely abolished, and instead, the taxes should be levied on the value of the land of the city. There is one other thing that I want to bring to the attention of this Commission—I mentioned it incidentally some days ago—and that is the principle of local option in taxation, which I think is the only just system, the only sound system. In opposition to that, we have heard some remarks along the line that we must have uniformity of taxation. Now, I think the evidence before this Commission is abundant to prove that we have no uniformity of taxation. It is impossible to get it. I have gone through the statistics for Ontario for 1898 and I find that there are 181 municipalities which have no assessment of personal property.

Mr. MACKELCAN; I thought we were here to-day to deal with the question of local improvements, and there are persons waiting here to go into the provisions of the law regarding that subject.

Mr. JUSTICE MACMAHON: Perhaps what Mr. Thompson is now saying has reference to the local improvement tax.

Mr. THOMPSON: What I say now is in reference to the local option tax, which is a branch of the general subject of taxation which has not been previously discussed.

The CHAIRMAN: Go on.

Mr. THOMPSON: There are 181 municipalities which levy no personal property tax. Now, those are not the poorest municipalities by any means, because forty of them have an assessment of one million dollars of personalty and upwards; they are towns and villages chiefly, except the cities. Half of them have over half a million dollars assessment of realty and no personalty. The point I want to make is this. The Act calls for the assessment of personal property; these municipalities evade it. Now, it is not because there is no personal property there, for many of them are very wealthy, for instance the township of York, with an assessment of six millions, has no personal property. What I want to show is that people virtually illegally have exercised option in taxation. They say, "We are not going to assess personal property, we do not think it is expedient," and 181 municipalities out of 750 have taken that ground, although it is right against the law. We contend we should amend the law to make that action on their part illegal, and also to give to other municipalities who are more law abiding or conscientious the same opportunity of exempting personal property from taxation. That this is not a mere opinion of an insignificant body of men I might mention that over a hundred municipalities in Ontario, including the cities of Ottawa, Kingston, and a number of the principal towns, have petitioned in times past for local option in taxation. The Trades & Labour Council have several times passed a similar resolution. Some 25 or 30 trades unions in this City have also passed a resolution endorsing the principle that the taxation of property and that of determining what property should be taxed should be left to the people at large.

The CHAIRMAN: These petitions and resolutions have been, in general terms, that each municipality should have complete power to say what should be taxed and how?

Mr. THOMPSON: Yes, that they should have the power of taxing or reducing taxation on personal property, land or buildings, or exempting all of them. Then, in addition to that, private petitions have been circulated through the Province, quite a number of signatures being taken.

The CHAIRMAN: Is the option sought in respect of exemptions as well?

Mr. THOMPSON: No, it is on broad lines. I have a bill here prepared by the Single Tax Association and introduced into the House, which I propose to leave with you, and the option is put in broad terms.

The CHAIRMAN: When was that introduced?

Mr. THOMPSON: In 1895. We had several bills; this is one of 1895, which was the best (*a*) 95 per cent of the business men who were asked to sign this petition signed it quite readily and said they heartily endorsed it. I understand that the City of Toronto has passed a resolution in favour of that in times past. So that you can see there is a very strong feeling in favour of leaving the question of what should be taxed to the people who should pay the taxes. We have not made any alteration as to who should vote on it, but leave it to the ordinary ratepayers as is now done. Another point, which I am not sure is in the programme to-day, is that the incidence of taxation seems to be ignored. The incidence of taxation is of more importance than taxation itself. By the incidence of a taxing power you may crush industry or you may crush monopoly, and that is one part of the subject which I should like the Commission to give particular attention to. In the document which was left by the Single Tax Association the subject of the incidence of taxation was very thoroughly gone into, and I may say that it is not only the views of the Single Tax Association, but that the document was largely culled from the report on taxation of the State Bureau of Illinois in 1894.

W. A. DOUGLASS: Might I be pardoned for saying something which I forgot before? Some speakers referred to the amount of taxation that was paid by property owners. I would like in that case to mark a distinction which was ignored by them. There is a property in which I have a large personal interest; we used to get $12 a month for the houses and pay one-twelfth of the gross rent for ground rent. 21 years passed by. We had to repair again and again. We had to largely improve those houses; and at the end of 21 years all the rent we could get for them was eight dollars a month. The gross rental was reduced one third. All that time we paid the taxes apparently. Of course we collected them out of the tenants. The parties who held the land received at first one-twelfth of the gross rental; at the end of twenty-one years, when the gross rent had been reduced by 33 per cent, their rental was increased to the extend of somewhere about 70 per cent.—pretty well evened up.

The CHAIRMAN: The ground rent?

Mr. DOUGLASS: The ground rent. They paid those taxes.

The CHAIRMAN: What bearing has that on the question to-day?

Mr. DOUGLASS: Dr. Barrick spoke of the amount of taxes that fell on the property owners. What I want to point out is that when he says property owners, he should carefully distinguish between the owner of the land and the owner of the improvements. In another case in this city in which large local improvement was made, there was a property which was assessed at $2,200 upon the improvements. That property was bought by The Freehold Loan and Savings Company. They pulled down the shanties that were there, they put up the large buildings which cost between $200,000 and $300,000; the owner of the previous property paid for it $1,000 in the year 1850; and when the lease was made to the Freehold it was on a valuation of $40,000—an increase in value of forty times in forty years. At the present time the owners of that property are collecting their ground rent; they pay no taxes whatever in any form; they are not assessed on income; the holders of that property put up that beautiful building; they had to pay for the opening of Victoria St., which was a very large local improvement; and on the expenditure of that enormous amount of capital. I am betraying no secret when I say they have not earned three per cent., while the other party is getting his 200 per cent. per annum while the tax falls wholly on the occupier of that property.

JAMES HUNTER: I have been listening carefully to what has been said here, and there is something good in what every man has said, but much that I cannot agree with either. I have had considerable experience with the local improvement system, and my opinion is that it is not wholly bad nor wholly good. Valuable land or land with valuable houses and buildings on it, suffers no wrong from the local improvement system, but land less valuable is what does suffer--vacant land particularly, and corner lots. There are cases of corner lots that I know of, say sixty feet, and the general rate has been $21 while the local improvements have been over $60, the land being valued at about $25 a foot Now in cases like that, as Mr. Douglass has properly put it, the difficulties or wrongs connected with it are more matters of detail, probably, than in the general aspect.

(*a*) See 21 No. in Appendix A.

Before it was introduced here in Toronto I recollect well the trouble, was what was called "back stairs" and worse influences in regard to the outlaying of taxes. Some localities were better favoured than others according as certain localities had the pull, or its alderman was aggressive, and it was on that ground that the local improvement system was introduced, because it was expected to rectify that. In some measure it did rectify it, but there is still something wrong in regard to some localities where local improvements have been instituted, that is, by the expropriation of property which in some cases has amounted almost to confiscation. These things ought to be rectified, it seems to me, with some touching up, and one feature of it would be I think that the city at large should pay perhaps more of a proportion than it does now. I think it should pay from a third to a half of the intersections, and I believe this would be conducable to better streets; but in the short streets there is no injustice suffered, as in those that are more extended. Less valuable property should have less expensive pavement. These things I think might be rectified without doing away with the local improvement system altogether and falling back to the old system, which would be open to the objection perhaps a greater degree on account of improper influences with aldermen.

Adjourned at 1 o'clock till 1.30.

On resuming.

Mr. MacKelcan: I would say a few words on the general subject. It seems to me that these provisions of municipal law relating to local improvements are very useful if properly applied. The intention of the Legislature in all probability was to enable persons owning land in part of a municipality, that was separate to a certain extent from the leading streets of the municipality, to have public improvements made where perhaps the general interests of the community would not justify the making of such improvements. The powers contained in these local improvement clauses could then be invoked with very great advantage to the locality where the improvements were desired, and that is the spirit in which that Act is made use of in many municipalities. I may say that in our municipality the general principle is acted upon that in such portions of the City where the streets are used for the transmission of a very considerable portion of the business and traffic of the town to and from the country, and from outlying portions of the town to the centre roads and streets, they are to be regarded as properly subject for the general expenditure of municipal funds, and the improvements made upon them are made out of the general funds, whereas in residential localities where the owners would like to have better streets than the public would feel justified or inclined to give them out of the general tax, they can take advantage of these local improvement clauses and have such good streets or pavements constructed for their own immediate benefit on the local improvement system. In that way the system can be worked out to the mutual advantage of the general ratepayer and the property owner who desires to have such improvements made in his neighbourhood for the enjoyment of himself or his neighbours or for the improvement of their own property. Of course I quite understand how in the City of Toronto, by reason of perhaps an undue amount of expenditure from interested motives made in portions of the City that did not contribute a share to the City revenue which would justify such large expenditure, in those localities it was deemed advisable to avail themselves of Section 682 of the Act and make it compulsory upon the Council to construct all streets and sidewalks under the local improvement sections of the Act, and that policy therefore seems to have been adopted. There is a difference of opinion as to whether it is the proper policy to adopt or not, but no doubt there were cogent reasons leading to the adoption of it at the time the by-law was passed by the people. I am simply addressing myself to the general question as to whether these local improvement clauses should be abolished altogether or be retained in the Statute. It seems to me if they are utilized in the manner contemplated when the Act was passed they might be retained with more benefit. . Of course there are certain classes of public works that are purely of local interest, such as lateral sewers for the benefit of residents of outlying streets or in portions of the city where no trunk or large common sewer exists. These lateral sewers could, it seems to me, be quite properly constructed as local improvements and that has been the practice that has been followed by us, and that applies more to works of that character than it does to streets that are used by everybody. The local sewers of course are used only by the local property owners and the tenants of those properties, so that they are of local use only. There is, however, a very great difficulty

oftentimes in carrying out the details of The Local Improvement Act. It has been said by some of our Judges to be a most complicated piece of legislation and one that is almost impossible to carry out in accordance with the strict letter of the law. Chief Justice Sir William Meredith speaks of the provisions of the Local Improvement Act as "somewhat complicated, cumbrous and contradictory." I would advocate that the provision should be so simplified that where it is established that the necessary two-thirds in number, representing the majority in value of the property to be charged with the special rate, have petitioned for a work and the work has been done, there should be no technical difficulty in the way of the collection of the money by the municipality, provided the requisite notice of the intended assessment is given to all the parties who will be called upon to contribute, or if notice of the intention to make the improvement has been duly published under Section 669, and there has been no petition such as is required by the Act against the improvement and the City has gone and done the work, that the initial by-law authorizing the work should not be necessary. The Council may go on and do it, and then after the work has been done they may give the requisite notice to the parties to pass the by-law to issue debentures and levy the amount. When the work is undertaken in a small municipality as a local improvement, but a work of some extent and probably the only work of the kind undertaken during the year, it is possible to pass a by-law before beginning the work and go through the legal formalities that seem, under the decisions, to be necessary; but where these works are undertaken every week in the year, first in one block and then in another, and then in a portion of another block, and so on, and they are going on from day to day, our statute book would simply be stuffed full to repletion of by-laws that we had to pass for the completion of every one of those pieces of work; so the practice is to go on and do the work, and when the work has been completed and the cost of it ascertained and the frontages all measured up, then to give the requisite notice of assessment, give the parties a date to appear to hear what their complaints are, and then go on and make a by law to levy the cost in the proportions authorized by the statute.

Mr. BUTLER: Where do you get the money to pay for the advances?

Mr. MACKELCAN: Well, we do not have to do the way a township would have to do—make a special loan. We just overdraw in the bank, that is all.

Mr. BUTLER: Where is your authority for that?

Mr. MACKELCAN: The Act authorizes you under Section 672.

Mr. MACKAY: But the question is, would the bank advance money on an agreement of that kind without a by-law being passed?

Mr. MACKELCAN: Yes, the bank will advance money whenever the city draws a cheque for it.

Mr. WILKIE: Who does that?

Mr. MACKELCAN: Our bank in Hamilton. They charge us 5 per cent. for it, though.

Mr. WILKIE: It is not your credit you are pledging when you borrow without authority.

Mr. MACKELCAN: Our bank thinks so They have done it for twenty years or so—they have made a profitable investment. We have a general by-law which provides for this mode of carrying out these works. (Section of by-law read). We provide for all local improvements in that way, and I would like to have it made clear that if a work is actually being done it could be arranged for in that way.

The CHAIRMAN: What section was that you were reading?

Mr. MACKELCAN: It is Section 672. I was reading a clause from our by-law, but it follows the wording of the Statute. If one of these things exists, if there has been a by-law properly signed or a notice properly published, and no notice sufficiently signed against the work, and the work has been completed, then no formality of any other description shall invalidate a by-law passed to raise the money and issue debentures if the proper notice of assessment is given to the persons to be charged in due time. It makes it only necessary to pass one by-law. We have a general by-law under which these are undertaken, and then the only by-law that it is necessary to pass will be the by-law for the issue of debentures. In the meantime the work is done in the ordinary way by the Board of Works and a special account kept of each one of those works. The money is drawn from the bank in the ordinary way of business, a general bank account, no special agreement is made for it.

The CHAIRMAN: What are you leading us to now?

Mr. MacKelcan: Simply that the Act should be simplified. There should be a declaratory clause.

The Chairman: You say the Act should be amended?

Mr. MacKelcan: Well, should be simplified in that way, that no other ceremony should be necessary, no by-law to authorize the work in the first instance, or by law authorizing to borrow any money, but simply the mere fact that the work is being done.

Mr. MacKay: Under what by-law would you borrow the money?

Mr. MacKelcan: Under the general by law. An agreement is made for temporary advances

Mr. Wilkie: It goes on to say, temporary advances for certain purposes.

Mr. MacKelcan: (reading) "Temporary advances for loans for covering the cost of an improvement." Where you have $100,000 local improvements going on at the same time you cannot possibly keep a separate account of the moneys that are drawn. The money that is paid out on the pay lists of course will be paid by the city treasury to the different works on which the men are employed. The money is drawn to pay wages every week, and then the pay lists are charged up against the various works that the men are engaged upon, to whom the wages are paid. No money is especially assigned to any particular work when it is drawn out of the bank It is drawn to pay the wages of the men engaged in all these different works, and in that way the result is attained that when the work is done the cost of it is laid out and then the parties who are to be locally assessed for it are all invited and they appear before the Court of Revision and the amount to be levied is all settled and adjusted and the contributions are adjusted and the by-laws passed to issue debentures and raise the money. Take the case of cement sidewalks; several hundred miles are laid extending over blocks in all portions of the city. Then when these works are all completed the Assessment Commissioner and his staff go and measure it all up——

The Chairman: We are not here to have an exposition of the existing law unless it has a bearing on the question whether the existing law is a good one or not and whether it ought to be amended.

Mr. MacKelcan: I am just simply asking to have it simplified so that if these three perequisites are—

The Chairman: You are satisfied with it as it is except that the language ought to be made more simple?

Mr. MacKelcan: Except that the procedure is a little more complicated than there is any necessity for, and too complicated for practical working where a large number of works are undertaken.

The Chairman: You asked us to amend the Act by dispensing with two by-laws?

Mr. MacKelcan: Yes, to render it unnecessary—

The Chairman: First a by-law to do the work, and second a by-law to raise the money?

Mr. MacKelcan: Second, a by-law to borrow the money.

The Chairman: These two by laws should be dispensed with, that is your proposition?

Mr. MacKelcan: Yes, where we have a general by-law like this for local improvements; that is the practice we follow. The only thing is, we do this at the risk of some technicality being sprung upon us some time that we should have passed a by-law; and a by-law is looked upon as something so sacred that is impossible to dispense with it although it is rather an encumbrance than otherwise. You may pass a resolution of council and you may settle upon what you are going to do. Well, if you have to draw your by-law and have the first reading, and then referred to a committee of the whole on the second reading, it is complicated and it is impossible to apply it to every several piece of work going on concurrently.

The Chairman: We understand the process.

Mr. MacKelcan: Then in the same way the question of jurisdiction of the Court of Revision might be made clearer, and the questions they are to deal with.

The Chairman: What section is that?

Mr. MacKelcan: Section 671, sub-sections 5 and 6 of the Municipal Act.

The Chairman: What change do you propose?

Mr. MacKelcan: "(*d*)" is a sub section which is very difficult to determine—"unless the share is to be borne by the municipality in his judgment should be changed.

Now, the statute fixes what that share shall be, the cost of improvement made opposite the intersection of streets or opposite property which is under local assessment. Whether that means that the judge shall inquire into the cost of the work and if he finds that it has cost more than it should have done, making the municipality pay the excess and charge the property owners only with the difference, is one of the questions that is in dispute.

The CHAIRMAN: What do you say it should be?

Mr. MACKELCAN: Well, I think perhaps it might be made more definite, I mean to say whether he shall or shall not charge any difference in cost against the municipality if he thinks the cost has been excessive. I just call the attention of the Commission to that lack of decision in that sub-section. However, the principal point that I desire to urge is that the by-law for the issuing of debentures should not be rendered invalid by any informality or omission, provided these essentials I have mentioned have been satisfied.

The CHAIRMAN: I gather then, Mr. MacKelcan, that as representing the Municipal Association you approve of the maintenance of the present system of local improvements?

Mr. MACKELCAN: I think if properly applied they may be very ufeful. Of course they are open to abuse as is almost everything else.

The CHAIRMAN: Notwithstanding the objections to them you think they are good and ought to be retained?

Mr. MACKELCAN: I think so; I think they serve a very useful purpose if properly administered.

Mr. MACPHERSON: If they are open to abuse could not you suggest something to do away with the possibility of that?

Mr. MACKELCAN: My idea is that they should be used only for works of a purely local character; that was what the intention was in the first place.

The CHAIRMAN: The present system seems to allow of a thing of this kind—that is to say, put down pavements or sidewalks on both sides of a street nearly two miles long, the value of the land at one end of the street being thirty times what it is at the other, and yet the ratepayers along the whole of that mile street pay according to the frontage.

Mr. MACKELCAN: Yes.

The CHAIRMAN: The present system admits of that; is that just?

Mr. MACKELCAN: Well, that is not a local improvement I think.

The CHAIRMAN: The present system admits of that?

Mr. MACKELCAN: It admits of it undoubtedly.

The CHAIRMAN: If it does you think it ought to be maintained?

Mr. MACKELCAN: Well, I might say—

Mr. JUSTICE MACMAHON: That is not the construction you have put on the local improvement?

Mr. MACKELCAN: That is not the construction we have put on it, but in the city of Toronto for exceptional reasons that I have mentioned they have considered it desirable to use it differently.

The CHAIRMAN: Do you say that law does not allow of that being done?

Mr. MACKELCAN: The law I think, as now framed, does allow it.

The CHAIRMAN: And yet you think it ought to be maintained?

Mr. MACKELCAN: If utilized properly, and words might be inserted that would prevent—

The CHAIRMAN: Then you think it ought to be amended?

Mr. MACKELCAN: Yes, it might be amended, but as it is now I understand it suits the purposes of the city of Toronto, and I do not want to interfere with their government.

The CHAIRMAN: We are endeavouring to get light that will be applicable to the whole country, not merely to Hamilton.

Mr. MACKELCAN: We have endeavoured to use it in accordance with the spirit of the Act.

Mr. FULLERTON: I do not propose to discuss general propositions which should have been considered this morning, but I want, rather, to direct the attention of the Commission to one particular feature of the Act, to a clause which I think might be added to the Act to remedy the injustice that sometimes happens. I might, however, call the attention of the Commission to the view that has been more than once expressed

judicially, and where you will find a very concise expression of it, in Re Gillespie v. The City of Toronto, 19 Appeal Reports, p. 725, where Mr. Justice Osler says, "It is of the utmost importance that when the Council undertake a work of this kind of which the public at large get the benefit while the frontagers pay the cost, they shall be held to apply with reasonable strictness," etc. The words I wish to emphasize are "of which the public at large get the benefit and the frontagers pay the costs"; and I have felt, on more than one occasion, that an opinion of that kind held by a learned judge has more or less coloured the views and results that were arrived at, and if something could be done to get at a system that is fairly just it would perhaps relieve the difficulty in that way. I propose to suggest to the Commission that where by-laws are quashed for irregularities, as they sometimes if not frequently are, that there should be some saving clause or some power given to the judge who is trying the case, that the by law should not be quashed *in toto* and the whole cost of the local improvement—in which the frontagers get at least as much as other frontagers get—thrown upon the city at large, and the reasonable and proper share of the construction that is made should be put by the Court on the parties who derive the benefit. Perhaps to illustrate that by one case, and one case only, though there were very many, I may take the same case I have cited from, Re Gillespie vs. The City of Toronto.

Mr. JUSTICE MACMAHON: That is the Spadina Avenue case?

Mr. FULLERTON: No, it is the Bloor Street case, the case of a local improvement on Bloor Street, where a by-law was quashed and about $30,000 thrown on the City that really and properly belonged as we think to the Bloor Street frontagers under the law as it was. I will not attempt to read the judgment to you; the main judgment is very lengthy, though the others are small, and it is discussed with the usual lucidity with which Mr. Justice Osler discusses cases of this kind. The grounds on which the by-law was quashed are four. (1) The recommendation was for a macadam road, and subsequently in passing the by law, which was described as a macadam and granite-sett roadway and curbing, the distinction between those two was held to be sufficiently serious in that leading judgment to quash the by-law on one ground. Now, I must point out something that was not properly on the affidavits before the Court, and perhaps would have made a difference—that granite-setts were included entirely in the railway portion of the road and consequently did not make any difference to the frontagers. The curb occurs to me as largely an incident of all highways in the city, as would be drainage and the holes at the side of the road for the purpose of that drainage, and it would have been only reasonable at least, I submit, that the Court should have found out what was the cost of adding granite setts and curbing, and have relieved the frontager of that and made him pay for the rest. Of course under the law it could not have been done. The second ground on which the by-law was quashed was that in the recommendation the man who drew it up spoke of "Five and twenty years", intending, as I have been informed, that the frontagers' portion should be five and the city's twenty, or vice versa, I am not sure which now, but the five and the twenty were intended to be distinct. The by-law was for five years, and it was held that this was fatal, and no doubt rightly so, if that is the proper meaning of the words. But I submit again it should have been a ground for amending and for directing an amendment and not for quashing and relieving. The third ground was that the estimated cost was $17,000 and the actual cost $21,000. Again, I submit, a ground, not for relieving altogether, but for apportioning the proper cost. The fourth ground was—and there there was much difference of opinion in the Court—that there was a petition against, Mr. Justice Osler holding that the language of the petition that was put by by certain ratepayers was fairly clear as being a petition against the improvement, the present President of this Commission holding the opposite, that it could scarcely be considered such a petition at all, but that the Counsel were right in supposing it was a petition asking for something else; Mr. Justice Burton rather inclining to take the view of the President of this Commission. The result was that the by-law was quashed and $30 000 thrown on the city, which we think should have gone on the local ratepayers, or a portion of it should have gone. Now, the solicitor was kind enough to draft a clause last night, and on looking over it I was not satisfied with it, and I revised it, and I was not any better pleased with it, and I would ask the privilege of considering it further and to submit clause which will cover the views that I am endeavouring to express; that is, that where a by-law comes before a Court or Judge for the purpose of consideration of a

motion to quash, or an action to quash, that power should be given to the Court or Judge to deal with it according to its merits and to direct such amendments in the by-law as he thinks ought to be made, or to refer it to the Court of Revision or the County Judge for the purpose of considering such amendments and doing what ought to have been done in the first instance.

The CHAIRMAN: This came up on a motion to quash, didn't it?

Mr. FULLERTON: I think so. In Sweeney vs. Smith's Falls, 22 Ont. App. 429, where the same result happened, which motion came to the Court of Appeal, it was on an action to recover the tax. In Petman vs. Toronto it was on an action. On two occasions in the City of Toronto where from informalities or other reasons questions of that kind have come up, the by-law has been quashed, I resorted to the Legislature, who have in part, in each case, restored the by-law and imposed what they thought was the reasonable amount the frontagers should bear.

Mr. JUSTICE MACMAHON: Where there is a petition and the frontagers get what they are asking for, and get something in addition to what they are asking for, they should certainly pay.

Mr. FULLERTON: In the Petman case I rather think it was a petition. In the Rosedale Valley road, where I went to the Legislature, it was on the initiative, no one petitioned against it.

The CHAIRMAN: You say you got the Gillespie by-law amended?

Mr. FULLERTON: Not the Gillespie, the Petman, and it remained as the Court left it. In two others the Legislature has partially reinstated the amount the persons were intended to pay; and what I submit should be done is to improve the Act so that the Court can do what the Legislature in those two cases did.

The CHAIRMAN: I take it, therefore, that you are for maintaining the existing system.

Mr. FULLERTON: Well, on that the Council of the City of Toronto and the people of the City of Toronto are mostly in favour of local improvement. Until they change that I do not propose to express other views than those that are maintained here. I assume from the fact that it is in existence here that that is the feeling of the people of Toronto and the municipality and I am only suggesting improvements. I have some personal views but I do not desire to express those views.

The CHAIRMAN: You would rather not be asked the question which I asked Mr. MacKelcan?

Mr. FULLERTON: As to my own views, I do not desire to put them forward at all.

Mr. JUSTICE MACMAHON: I suppose you could not, contrary to the policy of the Corporation?

Mr. FULLERTON: That is not what I am here for. What did seem to me on the point that you indicated, along for instance a street like Yonge street, where one man's frontage was $300 and another man's frontage was $3,000, to charge the same is not quite fair, and in the discussion of such points as this it did occur to me that along a street like Yonge street which becomes valuable by reason of the great number of people that resort there, it is not quite fair that that street, that is there as much for the public as it is for anybody else, that they should pay for the heavy pavement work to which the public largely resort. For instance, Yonge street accommodates the people as far as Holland Landing and much further north coming down into the city.

The CHAIRMAN: You would not apply the Local Improvement Act to the whole length of it?

Mr. FULLERTON: Quite so, that would put it into the County of York, but that is the result. Or along the side streets people come out and go down and use Yonge street; the result is to give Yonge street its business value. Now, whether it is right that Yonge street should pay the whole of a special and improved pavement is not a question that I have considered. It may be that business calls the people there. They come there by invitation of the business that calls them there. They come there because business people invite them there, and for that reason it may be urged that they ought to pay. I have heard both views advanced. If, for instance, we take the view that the man who goes into Simpson's or Eaton's store goes there by invitation and therefore the store must be kept in order so that his way in there must be safe, the same principle would show that where people invited them there they ought to pay. I do not care to decide between those conflicting views.

The CHAIRMAN: The existing system is not founded on either of these views.

Mr. FULLERTON: Well, it is largely founded on the view that the frontager must pay for all the improvement that goes on in front of his place.

Mr. FLEMING: What he asks for

The CHAIRMAN: What a bare majority of his neighbours ask for.

Mr. FULLERTON: I do not think the Commissioner's way of suggesting that is quite fair. He is put in the position that he has got to ask for that or get nothing; therefore he has to choose the mud or asphalt. He cannot ask for something that somebody else will pay for; he must ask for that or he gets nothing else.

The CHAIRMAN: I was in hopes that from your long experience, Mr. Fullerton, we would get some matured views on the general subject. I was expecting the same thing from Mr. MacKelcan.

Mr FULLERTON: The difficulty I am placed in is that I find the views I personally hold would be rather in conflict with the Assessment Department and with the established order of things, and I do not care to urge them.

The CHAIRMAN: I am sorry we cannot get the benefit of your long experience.

Mr. WILKIE: As I understand, Mr Fullerton does not think that the most expensive property should necessarily pay the greatest share of the improvements; that if anything it should pay less, if it is situated on a street that affords the greatest accommodation to the greatest number of people.

Mr. JUSTICE MACMAHON: That is not it; Mr Fullerton's view is this, that in those cases the whole improvements should come out of the general fund.

Mr. WILKIE: That is the same thing.

Mr. FULLERTON: I was only putting the views I have heard discussed. For instance, yesterday in discussion with His Honour Judge McDougall he put the view before me that where there are business properties such as King Street and Yonge Street, that those ought not to pay for extensive improvements in front of them that are put there for the public use. That was the way that he put it Then I put this back as another view of the case; I said, "These properties are established there for the purpose of doing business, and the public go there because they are invited there by the owner of the establishment, and they are therefore used by the public on that invitation." Now, if that latter view is correct—and it occurred to me to have a good deal of force in it—then if they invited the public there they should be made responsible for the way in front.

The CHAIRMAN: It is only in a sense that there is an invitation. It is an invitation as between other business men of the same sort.

Mr. FULLERTON: Quite so, but you will find—

The CHAIRMAN: A customer goes because he wants an article, not because he is invited; but as between two or three business places of the same kind he goes to one because it is open to him.

Mr JUSTICE MACMAHON: Because there are greater inducements to go to the one then there are to go to the other.

Mr. FULLERTON: He wants an article, and there are certain people, one, two, three, or a dozen, at different places, have the article; each of them are inviting him to come there; as each of them invite him and want him to come they ought to provide a reasonable and proper way for him to come by. He wants a particular road that he takes because he goes there to get that particular article.

Mr. JUSTICE MACMAHON: The road is provided for the whole people of the municipality because the trend of trade, of the whole of the trade, is in one direction.

Mr. FULLERTON: And it is in one direction in the first place, I suppose, because people trend there, and they trend there because of the inducements held out there.

The CHAIRMAN: Then if it is paid out of the general rates it is paid in proportion to their taxable ability?

Mr. FULLERTON: Exactly.

The CHAIRMAN: Would there be any difficulty in maintaining the system as it is but making the pavement rate according fo the value of the frontage?

Mr FULLERTON: Of course that throws it all on land and local improvements on land, and off income and personal property; that is the only difference.

The CHAIRMAN: Take a small street; one man's depth is 300 feet, another man's depth is 60 feet, they pay according to the frontage, what sort of justice is there in that

Mr. FULLERTON: That does not seem quite fair.

Mr. JUSTICE MACMAHON: One man's lot runs through to another street, there are two frontages, but he has no granolithic pavement on the other frontage, therefore he may have all the improvements on the main street and the benefit of the other frontage without paying anything for it.

Mr. FULLERTON: There is this is to be said, with regard to one man having 300 feet depth and another man 60: I do not suppose it is possible to devise any scheme in taxation that will be exactly equal; it can only be approximately so.

The CHAIRMAN: But these two men do not pay the same in proportion of general taxes?

Mr. FULLERTON: But in paying the general taxes would not the man whose lot is 300 feet deep be valued at more than the lot that is 60 feet, and would it not be more equalized in that way? But it may be that the man who has the 60 feet lot gets as much benefit from the road as the man who has the 300 feet. So far as justice between the two parties is concerned my view would be that the just way is to pay according to proportion of property; that is, that if you confine it to local improvement system where the land is dear, a man should pay according to the value of his land; not according to the frontage of his land. If you abolish the local improvement system then of course it falls generally on taxation.

The CHAIRMAN: There would be no difficulty in amending the law so as to adjust these conditions, these inequalities?

Mr. FULLERTON: I should not think there would be a great deal. There would be some difficulty in amending the law to apply to Toronto, where we have created a large number of local improvements, because many people have now paid for their roads in front of their places. There would be some difficulty, if the law was amended, in changing that so that they would not be compelled to pay over again, that is, compelled to pay for other roads when they have already paid in full for their own. If there was an amendment, that would need to be borne carefully in mind.

The CHAIRMAN: Is there any one else desiring to speak on this subject?

Mr. FULLERTON: I think Mr. Fleming might speak.

Mr. R. J. FLEMING: I do not care about saying anything. I do not agree with some of the views that have been expressed, and particularly Mr. Fullerton. I think the suggestion that property pay according to its value, while it appears reasonable, is impracticable, and I think it would lead to stagnation in improvements on the street; Take the block from Bloor Street to Queen, and if the people who are assessed on $100, a foot on the northern part of that street were only to pay a thirtieth part of the cost, or a twentieth part of the cost, the people who are further down would block the improvement, they would not allow the improvement to go on.

The CHAIRMAN: And they would suffer accordingly.

Mr. FLEMING: They would suffer accordingly, yes, possibly they would. Now what strikes me would be done would be this, that the more wealthy property owners would have a pavement put down simply opposite their own property and they would allow the balance of the street to take care of itself. Now, there does appear an injustice in having the cheap property pay just as much as the expensive property, but if you would make a change along the line that has been suggested, my opinion is that it would do two things: It would block improvement, and it would cause the owners of high-priced property to put a pavement opposite their own door and leave the other property without any pavement at all. After all, there is no street in Toronto where the pavement is put down but that the property is increased in value more than the cost of the pavement. That being the case why should not the property pay for it? There never were as good roads in Toronto as there are at the present time, under the local improvement system, or under any other system, and there never were as many improvements.

The CHAIRMAN: In some places.

Mr. FLEMING: I take the city as a whole.

The CHAIRMAN: Take Simcoe street, for example, they have got a sidewalk from Queen southwards in respect to which people have had to walk in the middle of the road for two whole years in consequence of its dangerous condition, simply most disgraceful.

Mr. FLEMING: I quite appreciate that. Were there not hundreds of those streets in exactly that condition before the local improvement system?

The CHAIRMAN: That street was never in such a condition before.

Mr. FLEMING: That one, I think that is correct. That is a street that possibly had a better pavement, but it is a street that the better class of people, if I may use the expression, I think are departing from, and it is getting into boarding houses, etc.

The CHAIRMAN: They had very good reason for departing from it.

Mr. FLEMING: Well, they have the power in their own hands to get a pavement down there if they want it.

The CHAIRMAN: I am speaking of the street from Queen to Adelaide, south of Adelaide Street it is perfectly good.

Mr. FLEMING: What better would that street be if we were back under the old ward-grabbing system? There is no evidence at all that it would have a first-class pavement. Every street could not have a first-class pavement; if it had, the taxes would be so high that people could not live. If you abolish the local improvement tax to-day and put it in the general rate, the people are crying out about the general rate now, and the reason the people are not asking—

The CHAIRMAN: It would be better to have less good and more better.

Mr. FLEMING: I am not certain that you would have even that.

Mr. JUSTICE MACMAHON: I dare say Toronto is in a different position from almost any other city. Instead of having well-paved and well-lighted streets radiating from a centre, they started at the circumference, started out two and three miles from here and worked out there and left the well-inhabited portion of the city to take care of itself.

Mr. FLEMING: Well, of course there is reason for that.

Mr. JUSTICE MACMAHON: The reason the taxes are so high is because of the amount that was expended in the outskirts.

Mr. FLEMING: You take Simcoe Street, and it had a pavement down, that is, it had a macadam roadway, and the property owners felt that they were perfectly satisfied with that, that they would prefer that to putting down a new roadway, whereas when you get out to these outlying streets where they had a macadam roadway they said, "We want the best that is going," and for that reason they put down asphalt pavement, etc. Take from Yonge Street east, there is simply miles of asphalt pavement in that district. Bloor Street is all asphalt from Yonge Street to Broadview Avenue. You can drive from Bloor Street right down to the Don and be on asphalt pavement all the time, and the leading streets are getting in first-class condition. If we were under the old system of grabbing all you can for a ward, there would be no proof that College Street would have a good pavement; on the contrary, I do not believe that it would have half as good a pavement as it has to-day, because there is a tendency all the time on the part of the taCouncil to cut down the tax rate no matter what work is starved, and the reason that a large number of payments and macadam roadways are not being repaired to day is simply because the Council won't put sufficient in the estimates to do it, they allow it to go as it is. Get back to the old system and you introduce a ward-grabbing system that was in vogue before, which to my mind was one of the worst things in municipal politics. When a good street opposite a property owner's door depended upon the favour of the alderman, the alderman became a little king, and the more he could grab from the city as a whole for the interest of the district the more valuable he becomes as an alderman in the estimation of these people, and possibly the more useless he would be to the community as a whole.

The CHAIRMAN: How would it do to abolish the wards?

Mr. FLEMING: Well, I think the wards could be lessened with advantage to the city; I certainly think that.

The CHAIRMAN: Abolished altogether?

Mr. FLEMING: Well, there is a difficulty in abolishing altogether; your constituency would become so large that there is just a possibility that it might then become a party question. I think you might do with two wards and you might do with three. I think you might do with less representation, and you would be far better if the city were governed by a Commission than governed by a lot of aldermen as they are at the present time; but that is off the question. What strikes me as a very bad feature of the proposition to abolish the local improvement system would be the making of the aldermen little kings in their locality, having them grab for their wards irrespective of the injustice that is being done to any property.

The CHAIRMAN: It would be worth your while walking out to Simcoe street to see what might happen any hour; a man may fall and break his leg there and make the city pay more than would repair it. I am surprised that some accident of the kind has not happened.

Mr. FLEMING: Is it reasonable that I, living three miles from Simcoe street, and having no interest in it at all, should be called upon, as it would be under the general improvement system, to put down a pavement opposite the property of people upon Simcoe street? Why don't they put it down for themselves? They have a right to ask for what they want and get it and pay for it. It increases the value of their property. Why should I be assessed for it, owning a block of property two or three miles away? I think it is unfair.

Mr. FULLERTON: I may say that a great deal of difficulty has arisen in Toronto in this way; sidewalks get out of repair; the people have the right to petition for obtaining a sidewalk—

The CHAIRMAN; The city has a right to repair. If a sidewalk is out of repair the city is bound by the law, as it stands at present, to repair, and the street to which I refer has been in that condition for over two years.

Mr. FULLERTON: I take it, though, that the street you refer to has passed beyond repair, that what it wants is a new sidewalk?

The CHAIRMAN: It wants repair, unquestionably.

Mr. FULLERTON: A new sidewalk is what we understand under the Statute to be repair; but as between the frontager and the city, I want to put a different meaning on the word "repair" to what is used in the old section 531, now section 608, I think it is, because there comes a time when the lifetime of that sidewalk has reasonably expired and when the people should renew it along the street. Now, if they petition against it—

The CHAIRMAN: Then there is no interval between?

Mr. FULLERTON: Yes, there is a long interval of repair in which it is kept up, in which boards are renewed and sleepers put down, in which that sidewalk is kept in a position in which the city thinks proper it should be, perhaps not as well as it ought to be on account of the difficulties Mr. Fleming has spoken of; but there comes a time when the old sidewalk ought to be pulled up altogether and the ground left there; and when I have advised in more than one instance that where the people refuse to petition and pay for a sidewalk along there the city would be acting properly if they pulled up the boards and threw them away and left mud, that suggestion has not been acted upon In one day or another the sidewalk, such as it is, is left there, a positive menace, a positive danger, expecting actions, and when they do come there is no way of defending them.

Mr. JUSTICE MACMAHON: When an action is brought you have to show it is out of repair.

Mr. FULLERTON: Those actions do not often come before you in the city of Toronto, because in those cases we go on and complete the work and make the best settlement we can.

Mr. WILKIE: Have you no power to take the initiative?

Mr. JUSTICE MACMAHON: They say not. They say, "We cannot go on with this at all, we know the state is dangerous, but there are part for the macadem road, while some want brick pavements, and until we are satisfied as to which is the majority we can't do anything."

Mr. WILKIE: The Chairman only refers to the sidewalk.

Mr. FULLERTON: Sidewalks are in a slightly different position from that. At the instance of the city of Toronto a clause was passed which is now section 677, which we thought would enable us to put down sidewalks without the consent of the people alongside, and charge them. In Hodgins vs. Toronto (*a*) it was the holding of Mr. Justice Street, and sustained by the Court of Appeal, that in doing that we must at least give notice to all the people along the road to be heard, and doing that and bringing the matter before the council it is as cumbrous and dangerous perhaps as to take the initiative, and the council have so far declined to act on that clause, since that decision. The result is that if they do not petition and we proceed on the initiative,

(*a*) 23 Ont. App. 80.

they can defeat it by a petition, with the result of leaving the sidewalk in the condition in which it is. The arguments this morning seemed to me to resolve themselves into about this: The present system is an injustice; to go back to the old system might create ward wickedness, develop a system of plunder in the wards; and we have to choose between injustice on one hand and immorality on the other. There was one statement made by Mr. Fleming this morning which perhaps emphasizes the view I was pointing out, and that is, if you take King street, for instance, and proceed on the local improvement system, assessing not on the frontage, but according to the value, the valuable parts would do their work, leaving the other parts out, so they would have to improve their own, and I think that would be exactly true under the local improvement system. I doubt, though, that it is an argument in favour of the local improvement system.

The CHAIRMAN: Would it be practicable to define a certain area, the most important parts in the city, which should be paved and attended to by the City itself from the general rates, leaving the outer sections to the local improvement system?

Mr. JUSTICE MACMAHON: That is, within a certain radius?

Mr. BUTLER: To be fixed by the Council or by the public vote?

The CHAIRMAN: Fixed by the public vote.

Mr. FULLERTON: Of course that would make the people outside pay for their own and part of the inside.

The CHAIRMAN: There is a provision for the exemption of the local improvement taxpayer from similar taxes that are general to the city, is there not?

Mr. FULLERTON: Yes.

The CHAIRMAN: How does that work out?

Mr. FULLERTON: I think that works out all right.

Mr. CASWELL: Our plan is very simple. It is just this way: We allow 60 feet on the corner, or half the depth of the lot, flankage. Take a pavement, the city pays for the intersection where there is a cross street coming in, the city pays for this flankage on the corner, and of course it would be only on one of the two sides.

The CHAIRMAN: A man who has a corner house is exempt from one corner?

Mr. CASWELL: He is exempt on one corner to 60 feet, or half the depth of his lot. The flankage is paid by the city on the pavement and on the sidewalk, but it is not in the case of a sewer; the sewer is purely local because it cannot benefit anybody else.

The CHAIRMAN: A man may have to pay for a sewer on both streets?

Mr. CASWELL: No, he gets exemption on the sewer, but the city does not pay for the flankage allowance in the case of the sewer as it does in the case of the sidewalk.

Mr. FULLERTON: The question you put I thought was as to where a local improvement, for instance, has been constructed on Jarvis Street, Jarvis Street is exempted from similar improvements in the city. Of course that does not affect the city very largely, for this reason: Under our by-law here all local improvements are done on the frontage system, and that can only affect us where some work was being done which was of such a character as to be deemed entirely of a general benefit, or partially of a general benefit, and therefore was done at the expense of the city.

The CHAIRMAN: The local improvement is now universal?

Mr. FULLERTON: It is now universal in the city, therefore it does not affect this much. The one strong argument used in the Rosedale valley road case to quash our by-law was that it was a work for the general improvement and not a local improvement at all, and that it ought to have been done at the expense of the city and not at the expense of the frontagers. I was able to answer that by considerations with which I need not trouble you here, because it was local in its character, but if there had not been these other considerations—for instance a sewer that they wanted—there would have been a very strong argument in that. The opening from Queen Street into High Park, I advised the Council that if they felt it was a work of such general importance that it pertained to the city and not to the frontagers, that they could do it as a general improvement at the expense of everybody; but of course that did not apply to Jarvis Street; so that I think that exemption from others is practically under application in the city.

Mr. MACKELCAN: We have had a question raised many times under section 680 of The Municipal Act. It is scarcely necessary to go over the litigation we have had in Hamilton in regard to that, but the only local improvement which was made by the imposition of that special rate was a block pavement on certain streets. No block pave-

ment was done except as a local improvement paid for by special rates, therefore the Council passed a by-law exempting those who paid the special rate for block pavement from a portion of the general rate imposed to meet the cost of like works, because there were no other like works constructed out of the general rate. However, some persons who had paid block pavement taxes claimed the exemption, and they brought an action against the city to recover the amount which should have been allowed them by way of exemption, and our County Judge held that a macadamized road was work of a like nature because it was a crowned road, although not of the same material it was of the same character and for the same general purposes, and he exempted these persons who had paid the block pavement rate from their share of the rates that had been imposed during some years past for the cost of macadamized roads. Of course the amount was very trifling, a few dollars on a large assessment, and although several judgments were recovered the parties gave up litigating the matter because they found the amount recovered was less than the cost of the suit, and nearly all of them had been in arrears for so many years that in computing interest at 5 per cent. on their arrears it would be about five times as much as the amount they were suing for. But there is the difficulty of construing the meaning of the words "cost of like works." Apparently it is a matter entirely for the Judge or the Court that tries the case. There is no doubt that the ordinary macadamized road is about as permanent as the block pavement. The block pavements have lasted only about eight or nine years. But this section 680 is very complicated. The fact is, the amount of exemption is so trivial that it is barely calculable, and the result is that the Council have allowed these people to make a claim, and they are complicating the assessment roll with these infinitesimal deductions for the benefit of those people who attack the special rate.

The CHAIRMAN: Then this section has amounted to nothing?

Mr. MACKELCAN: It has occasioned a great deal of discussion and newspaper writing and Division Court litigation.

Mr. JUSTICE MACMAHON: It has been a benefit neither to the city nor to the taxpayer.

Mr. MACKELCAN: No; it is only a delusion. It leads to a great deal of complaint for which there is no substantial foundation. The amount is so trivial that it is really not worth computing. Regarding one branch of the subject that came up in Mr. Fullerton's address, and the question asked with regard to repairing Simcoe street, difficulty has arisen in several cities where a block has been, as stated to you this morning, improved at the expense of the local ratepayers, and some inside walk, for instance, would be laid down for one block, and then there was a gap of a block and then another would be laid down, so you had a sort of mosaic; and I know in London they are very anxious to have uniformity in that respect. At a meeting of the Municipal Association in London this resolution was passed, and it was requested that an amendment should be asked for embodying this law relating to local improvements as follows:—

"That notwithstanding any petition against the laying down of a sidewalk as a local improvement in any city or town which has not adopted the local improvement system under section 682 of The Municipal Act, the Council should be empowered to proceed with the work if, in the opinion of the City Engineer and of two-thirds of the whole Council, such work is deemed desirable and necessary in the public interests, and to provide for the cost of any portion thereof by special assessment on the property benefited."

Mr. JUSTICE MACMAHON: That is an amendment to Section 677?

Mr. MACKELCAN: No, Section 677 refers only to a plank sidewalk, and 677 is not very material because it does not clearly apply to a case where there has been a petition against the improvement. Where the improvement has been blocked by an adverse petition it was requested that that difficulty should be removed. There were certain persons who stood in the way continually of local improvements of that character, and they thought that where the City Engineer and two-thirds of the whole Council deemed it desirable it should be done there should be power given to the Council to carry out the work notwithstanding an adverse petition.

The CHAIRMAN: Amend Section 677 so as to extend it?

Mr. MACKELCAN: For sidewalks besides plank sidewalks, and also to extend the places where there has been an adverse petition. I will add the words "without notice" so as to get over the difficulty respecting the decision in Hodgins v. Toronto, 23 Ont. App. 80

Mr FULLERTON: I may say there is always a notice given of the matter coming up and passing through the Council. It usually comes before the public in some way or other, but that was not held by any means sufficient. There might be notice given by publication.

Mr. MACKELCAN: I will leave it as it is and we will give the notice.

Mr. CASWELL: The local improvement system has been adopted in Toronto, By-law 2001. passed on the 7th May, 1888, after being submitted to the ratepayers, by a vote of 1,772 for it and 814 against, making a majority of 958. The vote of course was not a large one, as it was only freeholders could vote on that. That was done under the provisions of what was then Section 625, now 682 of the Act of 1897, and cannot be repealed or amended except by a similar vote of the people. The result is that having this system in Toronto we have not to make the allowances spoken of in the other cases, because there are no "like works," part of which is charged to the general ratepayer. The reason is this, that the city only pays on each pavement separately, and they are all alike, that is, they pay for the intersection and for the flankages; in the case of the sewers the city pays for nothing. The man on the corner gets the same allowance, but the city does not pay it. The difference is that a smaller area pays the whole costs. Suppose there are 200 feet taken off for flankages of the whole, say 1,000 feet, then 800 feet pays for the improvement instead of 1,000; and he has paid for his sewer on the other street and perhaps does not need a second sewer. It, therefore, does not become us to find any fault with the system when the people have adopted it; it is not for us to say whether it is a bad one or a good one, so far as the officials are concerned.

The CHAIRMAN: Still, one question for us is whether the system works fairly and justly and honestly between citizen and citizen.

Mr. CASWELL: Let me state this fact that has been called to our attention, that ward 3 pays about 40% of all the assessments of Toronto; that ward 4 pays about 20% of all the rates in Toronto; the result being that those two wards pay 60% of all the general taxes collected in Toronto. Now, if the aldermen in ward 1 and ward 5 and ward 6 would unite with representatives from ward 2 and the local improvement system is done away with, they could have all the streets in their wards improved and 60% would be paid for by those two wards; whereas the centre part of the city which pays 60% of the taxes could be left without improvements, which would go to Parkdale and the east of the city.

The CHAIRMAN: Who would pay for the damages arising from non-repair?

Mr. CASWELL: The general ratepayer who now pays.

Mr. JUSTICE MACMAHON: Then the remedy is to do away with the wards?

Mr. CASWELL: I think it is fair to say that an honest effort was made a few years ago to try to abolish the idea of grabbing, of one ward having a different interest from another, and they divided the city into six sections from north to south so that each alderman would represent a water front, a business portion and a residential portion, and that is the way we have the wards arranged to-day? but that does not work all the remedy, because when you come to Parkdale the man is practically representing a residential section, with one business street, Queen Street, so there is still a local interest, you can't get away from it.

Mr. BUTLER: Suppose they were elected from the whole city?

Mr. CASWELL: The result would be you would get the Conservative party and the Liberal party sitting down and electing their candidates, and we would have the Conservative party electing the aldermen. I think that would be a great pity.

The CHAIRMAN: What matter of that, if you had good men?

Mr. CASWELL: How would we find out the good men?

The CHAIRMAN: There are good men on both sides.

Mr. CASWELL: I remember one day going up on the street cars hearing a gentleman say, "I will vote for a certain alderman, I don't know the man at all, but he has got a good Scotch name and I am going to vote for him."

The CHAIRMAN: He was pretty safe, I suppose?

Mr. CASWELL: Yes, but he happened to be an Irishman after all, though he had a good Scotch name. If that is so in a certain ward how would it be in a whole city like this? How would a voter know the man unless he is called out by a party?

Mr. FLEMING: In the United States they run their elections on party lines, and the

people are very tired of it. When people come here they compliment the city on being free from party.

Mr. CASWELL : I want to refer to Chief Justice Meredith's judgment in the case of Re Robertson and The City of Chatham, Ontario Reports, vol. 30, p. 172, simply on account of the history he gives of the local improvement system.

Mr. FULLERTON : This judgment very fully exemplifies our troubles.

Mr. CASWELL : He says this very system that is spoken about to-day was tried for twenty years and was changed by the Legislature. He refers to the legislation of 1859, and says the change was made in 1866, which abolished all the five modes of assessment permitted by the former Act, except the second, and, therefore, in 1851 the mode of assessment was by an annual rate on the dollar on the realty benefited according to the value thereof. For fifteen years they tried this very system, put it back on the value of the property, and for fifteen years it had not worked well, and they went back to the system of frontage.

Mr. FORMAN : It was practically the same as the frontage tax then.

Mr. CASWELL : Anyway it was changed then. Now, in working out this Act difficulties have arisen, and yet let me say that the city of Toronto have passed from 1888 to the 31st of December last the following local improvements :—For sidewalks, plank, 1,812 ; for roadways, 579 ; sewers, 396 ; improved walks, 193 ; making 2,960, and I do not think there has ever been a motion to quash one of those by-laws. Any motions we have had have been about this work of opening streets. We have not had any trouble with the local improvements that are properly so called, but whenever we went out of our element and constructed bridges and extended streets, difficulties have arisen, and I think you will find nearly all the cases that have come up before the Courts in the name of local improvement have been works of that extraordinary kind. This year we have on hand 281 works—81 roadways, 80 improved walks, 12 sewers and 108 other sidewalks. We have carried out the plan here since 1890 under By-law 2439 prepared by Mr. Biggar—and I honestly say I do not think you could get a man better versed on the subject of municipal matters than Mr. Biggar—and while it has been held by Mr. Justice Osler that our machinery is wrong, if Mr. Biggar would go wrong, with his familiarity with matters, it shows you that this local improvement system requires some remedy ; and yet if you look into that by-law you will find that it is as fair a system to a ratepayer as any system you could get.

The CHAIRMAN : When was that by-law under discussion in Court ?

Mr. CASWELL : In the case Mr. Fullerton referred to, of *re* Gillespie, Sweney *vs.* Smith's Falls was practically the same. Mr. Justice Osler points out that there are only two modes of assessing. One is to pass a by-law at the beginning, raising money that you require for your particular work, give notice of that and call the Court of Revision and pass that by-law, then go on and do the work. If it costs more, pass another by-law for a supplementary amount ; if it costs less, pass a by-law and refund what you have got too much. The other mode is to borrow money from the bank, give initial notices by publishing in the newspapers telling a man if he does not petition within a month of the last publication the work will go on without his leave or license ; then do the work and pass the by-law after that. Well, now, I say we do fairer than that. To-day's newspaper just gives you an illustration. Here is one of our notices in to-day's *Mail* for an immense number of works. We give notice not only of our intention to do the work, but, as provided in the statute, we give notice of the sitting of the Court of Revision to determine what property will be assessed for those particular works. We follow out exactly the provisions of section 671, sub-section 4 ; and yet it is held that we do not do right, because that distinctly states that the notice to be given must provide for the Court of Revision, and the Court of Revision must be called, and we do that, and yet it is held that we should not have held our Court of Revision until we got through with the work. Now, what we say is this : We had a general by-law ; under that general by-law—the one I pointed out—we recommend the work on the initiative, we give the parties these notices in the newspapers, but besides giving them that notice we send to every one of them a notice that he is to be assessed for the particular work in which he is interested. We give them notice that the Court of Revision will be held on a certain day, provided that that day will be five days at least before the last day for petition against the work, so that he can find out who, with himself, is opposed to the work. Now, it is very hard

for a man on a street if he is opposed to a particular work to find out whether his neighbours are opposed or not, but if he has an opportunity of meeting them at the Court of Revision five days before the petition he can find out and then go and get up a petition against that work in the five days. We give them every opportunity to object to putting down the pavement that we propose to put down. That Court establishes the frontage, and then the people have five days to petition, and if they do not petition, the work goes on, and we borrow the money from the bank, and at the end of the time, if the work costs less, they are only assessed for the lesser sum; but if it costs more we assess them for more without any additional Court. If it is less than 10 per cent. beyond the first estimate and we proceed under sub section 8 of section 671, or if it costs more than 10 per cent., if it is 10 per cent. beyond the estimate, we call a second Court of Revision, which has to deal with the question why it costs any more than the estimate, and whether we did any more than our recommendation called for. If we did more we have no right to call for it. If we did exactly what the recommendation covered, but the material cost more, there is no fault on our part, and the Court of Revision assess them for the full cost. Now, there is no wrong in that system. I think it is the best system of carrying out that Act, and I think the Commission should report in favour of a system like that, and sections 671 and 672 should be amended, because that is one that gave cause to Mr. Justice Osler to give judgment as he did.

Mr. JUSTICE MACMAHON: You are going to give us that amongst the other amendments?

Mr. CASWELL: What I propose is the words, "Make or complete the assessment," that what has been done should not be done over again, because Section 7 showed that.

Mr. MACKELCAN: Referring to what Mr. Caswell has said, I have been requested on behalf of our municipality to ask that it be made incumbent upon a Council, instead of advertising the notice under Section 669, that the work would be undertaken and the assessment of costs thereof made on the properties benefited thereby unless the majority of the owners of the property, representing at least one-half the value thereof, petition against it; substitute for that a notice either sent through the mail, or served personally, or left as an assessment notice would be left, with a grown-up person on the property assessed, of the intention to proceed with the work; because complaint has been made that where a large number of these works are undertaken and all included in the same advertisement, very few of those who are really interested in the property that is to be the subject of assessment read the notice or are aware until the work is actually begun that there is any intention to undertake it. A special notice is sent if you intend to assess in the first instance, but if you do not intend to make an assessment until after the work is completed, no notice of assessment is sent until after the amount has been ascertained of the cost of the work by its completion. There is no notice provided for in Section 669 in the first instance, but that notice should be sent in place of this advertisement, which is said to be practically of no value because busy men rarely read advertisements, and a notice of this kind escapes the attention of the property owner in all probability. Another amendment has been asked, that the petition against a work under Sections 668 or 669 should have the signatures of the property owners verified. I think it is important that the signatures to these petitions should be verified by declaration, inasmuch as it often happens that they are signed by persons who are agents or relations and who take upon themselves to sign without perhaps having the necessary legal authority; and as those petitions for a work are the foundation right to assess, it is very important that the petitions should be verified so that the clerk who is to decide the question has evidence before him on which he can properly come to a decision; otherwise he does not know whether the paper is properly signed or not, and yet the duty is cast upon him of deciding the regularity of that petition. As to whether those signatures are genuine or made by the persons entitled to sign is a matter he could not possibly know, therefore evidence should be furnished to him that would warrant him in acting on it. He could only guess; he does not know. It turns out in many instances that names have been signed by the wife or the daughter or some member of the household. Somebody taking round the petition says, "I want Mr. So and So's signature, or Mrs. So and So's signature to this," and somebody in the house signs it. It is done in good enough faith, but as a matter of law that signature is of no value whatever; therefore, there should be a declaration affirming the genuineness of the signature of the petitioner.

Mr. FULLERTON: The Assessment Commissioner has asked me to mention another suggestion which he desires to be made as an amendment, which seems to me to be somewhat important, and it bears on this very directly, for it appears in the arbitration clauses of the Act, commencing with Section 437. Under Section 439 of the Act special powers are given to us so that we can file plans, give notices, and cause every person to be affected by the improvement to be bound to declare the damages they sustain within the time as limited by the Act; and this would enable us, with a little explanation of another clause I will mention, to ascertain what amount we are going to have to pay for a special local improvement, for instance, such as the Rosedale Ravine road, or something of that kind, and I want to refer you to Section 463, which provides the usual clauses as to awards. The three months time is not long enough to arbitrate on all questions that will arise in a case of that kind, and it should be amended so that we can ascertain by arbitration or otherwise the full cost of a large undertaking before we are bound to pay any money. You will remember that in Petman vs. Toronto, at the time the street was projected in 1888, the cost of the street was fixed at $9,000, which was thought reasonable assessment. Through certain delays, for which I think the city was not to blame, the work was not done until 1890 or 1891, and it cost a little over $36,000, the land having through our boom fictitiously advanced to four times the value it was previously, and parties getting four times the prices for their land that it was supposed they would get. The by-law was quashed on that ground. We notified the parties it would cost them $9,000, and the amount to which it advanced was altogether beyond reason. We should have quit and gone on again. If an amendment could be made to Section 463 to cover that it would be a great advantage to corporations undertaking large works, and with the permission of the Board I might be authorized to draft such a clause and submit it to you.

Mr. FLEMING: There is this fact further, that we find that people frequently petition for a work and state themselves it will only cost about such and such a sum, and they are honest in that opinion, but after the council has been committed to the work then they think it legitimate to club together and take out of the corporation all they can, then go to the courts and oppose the saddling of the cost upon them on the ground that the work has cost far more than was originally intended, although it has cost more by their own act. For instance in the Don improvement, people were prepared to give their property —one man offered to give his property for the improvement; after the work was done and his property improved immensely he took from the city I think some $46,000.

The CHAIRMAN: Why did not the corporation proceed in that way?

Mr. FLEMING: I don't know.

The CHAIRMAN: Get offers from every man that had any property before they went on with the work?

Mr. FLEMING: You can't do that; there is always one or two men that will hang off.

The CHAIRMAN: Well, if one or two did, their claim would be governed by what other people took; if you got offers from nine-tenths of the owners of property, that is good evidence of value, is it not?

Mr. FLEMING: You can't do that.

The CHAIRMAN: Not unless you try.

Mr. FLEMING; I will take a case that is under consideration at the present time—the land at Lansdowne Avenue. The council requested me to get options on that. I went to the property owners and they simply said, "We don't want to give options, because the Railway Committee have required that work to be proceeded with;" and they think they will get more out of the city if they allow them to go on. A property owner will give his consent, but a mortgagee would not give his consent, and there may be a majority who won't. We may have a man who says, "I will give my property," and when we take the agreement to him his wife won't sign, the mortgagee won't sign, the loan company won't sign, and so on. If we had the power to go on and ascertain the injury done to that property before any work was done, and if we found that the cost of the undertaking was going to be enormous, simply give the corporation power to pay the law costs they have put the people to and abandon that project.

The CHAIRMAN: Haven't you got that power now?

Mr. FLEMING: No, we haven't it in a workable manner.

Mr. FULLERTON: Before we can go on we have to pass an expropriation by-law; that is the foundation of all arbitrations.

The CHAIRMAN. But after that is done you can proceed.

Mr. FULLERTON: Suppose we have twenty arbitrations going on, we cannot conclude those arbitrations in three months, and under Section 463 unless we adopt it in three months certain results are to follow. I want to extend that time.

The CHAIRMAN: If the Act does not enable you to do that, it should.

Mr. MACKELCAN: I should have brought before the attention of the Commission, in connection with the strong request that has been made for the repeal of these local improvement clauses, that a considerable extent of territory was added to the City of Hamilton some years ago, one of the terms affixed by proclamation annexing the territory being that for the period of ten years, which period has not yet expired, all the work upon streets and sidewalks in that territory should be done upon the local improvement plan and paid for as local improvement, for the reason that they were given a low rate of taxation in the older portions of the city. This was made a consideration for their obtaining that lower rate for general taxes, so that we are directly interested in retaining these local improvement clauses, for the reason that that is the only law under which we can make improvements or put down works of this character in that territory. Another thing I would say, that for lateral sewers it is absolutely necessary that we should have this local improvement law. Those are works that are peculiarly local only in their benefit and extent, and which would not be provided for out of the general taxes. The City would not have the sewer accommodation it should have if the citizens at large had to pay for it, whereas under the present system the inhabitants that are to be specially benefited petition and obtain what they need in the way of sewers for local accommodation connected with the general trunk sewers. In the way of cement sidewalks too the same thing would be the case. We have laid miles and miles of those sidewalks this year that never would have been laid but for the local improvement clauses of the Act. However, in those cases the City pays sixty per cent. of the cost, but the owners are very glad to pay the other forty per cent. in order to get the benefit of those improved sidewalks. So I think it would be very disastrous, in so far as any advantages of that kind are concerned, if these local improvement clauses were repealed. I think they can be improved in the manner that has been suggested, and made more workable, and with these improvements there would be a great public benefit.

The CHAIRMAN: There are one or two communications which I think ought to be read to the Commission.

The SECRETARY read communications from the Board of Trade, Ottawa, and from the Secretary of The Real Estate Owners' Association of London.

Mr. MACKELCAN; With regard to the suggestion in the last communication that the portion to be paid by the municipalities be limited to twenty-five per cent., the portion that would be contributed by the municipality towards the cost of a permanent sidewalk, someone said that a granolithic sidewalk was limited to forty per cent. in the Assessment Act, but an amendment was asked for to give the municipality power to increase that proportion to sixty per cent., and that amendment is now in force giving the municipality power to pay either more or less than forty per cent. It simply removes the cast-iron condition that forty per cent. should be the amount contributed by the municipality, and gives a Council power to either increase or reduce that. We have increased it instead of reducing it, but of course in Ottawa they can reduce it if they think it desirable to do so.

Mr. CASWELL: One further point I wish to mention is that if the Commission conclude to recommend the repeal of these clauses it should be done some four or five years hence so that matters could be adjusted between the people who are paying for local improvements and the municipality. It should not be too sudden a change. The other point is in Sections 668 and 669. I think an amendment is necessary there as to the value of the property which is counted in a petition for or against a work. It says "At least one-half in value of real property." That would mean real property plus the buildings, because the buildings are part of the freehold. In Hamilton that is the custom. In Toronto it is just the reverse—we value the lands as lands, not as real property. The reason is this: If the Rossin House was on King Street and adjoining it was a piece of vacant land, the Rossin House could prevent any improvement being put beside it. One or two large buildings with an immense assessment could completely block an assessment of vacant lands or small house buildings of small value; and there-

fore we assess the value as real property only, the property value without the buildings; therefore we suggest that you should put in the words "Representing the value of real property without any buildings or improvements thereon"—and the same expression in Section 669.

Mr. MacKelcan: I think Mr. Caswell, in order to be logical, ought to make it "According to the frontage." They pay by frontage—quantity instead of value—because the contribution is to be according to the quantity, not according to the value, so that the majority one way or the other should be recognized by the quantity that was to be measured, because that would regulate the amount to be paid. We prefer leaving it as it is, for this reason, that there may be houses on a block, and the residents may desire a local improvement and petition for it. Somebody may own property in that block with a larger frontage and may be opposed to any improvement, particularly in the matter of sewers. The residents there desire the local sewer, and the man whose land is vacant says he does not want the sewer, but he is not able to block the improvement if he has not the requisite majority in value by reason of his land being vacant, so that it is somewhat illogical. Now, we prefer that the law should remain as it is so as to prevent the owners of vacant land blocking improvements, particularly in the way of sewers.

Mr. Caswell: Mr. MacKelcan has proven himself to be illogical, I think, for last session he came to the House and asked them "When you come to exempt him in Section 680 put it on the value of the land and not on the improvements thereon."

Mr. Wilkie: Single tax?

Mr. Caswell: Now, I say the same provision ought to apply on both.

Mr. MacKelcan: The tax is only on the value of the land, and therefore the exemption should be only on the value of the land. I quite agree that you were more logical, but at the same time it is expedient, for the reason I say, that the holders of vacant land——

The Chairman: It was on the former occasion Mr. MacKelcan was illogical.

Mr. Caswell: He can get over the sewer part, because he can recommend them on sanitary grounds in connection with the Board of Health, and there is no difficulty in putting them down without the consent of the people.

Mr. Justice MacMahon: They can be forced on the people?

Mr. Caswell: Forced on the people.

Mr. Fleming: Mr. Chairman, you asked me the other day if there was any property that the Dominion Government had paid local improvements upon. I find that the Dominion Government have paid for the asphalt pavement on the lane off Toronto Street surrounding the "Inland Revenue" building, at a cost of $534.

The Chairman: A good while ago?

Mr. Fleming: In 1898, two years ago. The Dominion Government have agreed to pay for the roadway on the lane running west from Yonge Street between Front and Esplanade Street, near the Custom House. The pavement is not laid, but will be in the spring, it having passed the Court of Revision.

The Chairman: That will be on their own property?

Mr. Fleming: No, it is a public lane. They own through, except the lane, from Esplanade to Front Street.

The Chairman: I know they bought it and paid for it and got a conveyance of it all the way from Front Street to the lake.

Mr. Fleming: Yes, but that is only possibly a frontage of 100 feet running through to the Esplanade. This land runs to the west a good deal more than 100 feet. Their share comes to $2930. In this connection I would like to read a letter from the Hon. Mr. Tarte, Minister of Public Works. (Letter read, saying that the Minister will apply at the next Session for an appropriation of that amount) (*a*).

The Chairman: What about the Post Office?

Mr. Fleming: I don't know. So far as we can find there is no record of it, on the question whether the Government has ever been asked to contribute for that. There was a pavement put down on Adelaide Street at the request of the property owners, and I believe the Toronto University people joined.

The Chairman: That is near Upper Canada College?

(*a*) See No. 22 in Appendix A.

Mr. FLEMING: Yes, north; and the Ontario Government are paying their share of the cost, $1278 annually. That was by a special arrangement made. The City would not put it down, and the Government were putting the property on the market at the time, and they agreed to pay their share of it; and I find the University have paid for the pavement to be put down here upon Devonshire Place upon their own property, they have asked for it; and they have also paid for the pavement put down upon Hoskin Avenue. You asked me a question the other day, did I think it was fair to have the law changed so that the Government properties would be taxed, when the Government placed their buildings in Toronto say thirty or forty years ago under the law at that time that the property would be exempt from taxation? Well, possibly it would appear unfair, but you must bear this fact in mind, that the Government are changing the laws all the time. For instance, at the last Session, or within two Sessions of the present Parliament, they made law changes that at the present time are costing the city of Toronto about $30,000 or $40,000 a year—the Revenue Act, under which they take a revenue from all these companies, which has simply taken it out of the pocket of the municipality of Toronto and put it into the pocket of the country as a whole. Well, that being the case, if the whole country are getting the benefit of these buildings being erected here, why should they not contribute to it? The Government erects no buildings in Toronto except where it is an advantage to the Government and the Province to do so Now, it may be a matter of no concern to the Province whether a building is erected at Penetanguishene or Carleton Place or a score of other places; but there are a large number of buildings that they have to have in the city of Toronto, and we say we think it is fair that they should pay their share of the taxes on those.

The CHAIRMAN: Not merely local, but a general tax?

Mr. FLEMING: Yes, sir, a general tax, I would go so far as saying that.

The CHAIRMAN: And locals as well?

Mr. FLEMING: No question about the locals. Perhaps there might have to be some slight discrimination with reference to the general tax, but there is no reason in my mind why the Parliament buildings should not pay, and a number of other institutions.

Mr. WILLIAM MCLEAN: I see from reading the paper this morning that it was advocated that the land should pay all the taxes. Now, I have a couple of farms and the tenants are to pay the taxes, and in that case if they did not pay the taxes for two or three years, when the lease would be up, it would come on the land. I had a house in Simcoe County rented, and the tenant left and forgot to pay the taxes; in the meantime it was advertised for sale and was sold, and if it had been properly described by the Assessment Commissioner at Barrie I would have lost my house. I did not know but what the tenant paid the taxes, and in that case there was plenty of horses and carriages and other things to collect the taxes off, and if it was on the land I would have lost my land, for I would not know it. Now, if the tenants are bound to pay the taxes, I do not see why the land should be held responsible.

The CHAIRMAN: Was there an agreement between you and your tenant that he should pay the taxes?

Mr. MCLEAN: Yes, on a lease.

The CHAIRMAN: What do you complain of?

Mr. MCLEAN: Well, I complain that I think it would be unjust to collect the taxes off the land if it was not paid, if it is agreed in that way.

The CHAIRMAN: You got your Barrie property back?

Mr. MCLEAN: Yes, it not having been properly described the Treasurer could not give a proper title.

The CHAIRMAN: You say you were in great danger of losing the land?

Mr. MCLEAN: Yes, just by that simple way.

Mr. WILKIE: Was it the notice to you that you complain of?

Mr. MCLEAN: No, I got no notice.

Mr. JUSTICE MACMAHON: The notice would be given to the man in occupation.

Mr. WILKIE: You say there were sufficient chattels on the land to have paid the taxes?

Mr. MCLEAN: Yes, it was a reverend gentleman lived in the house.

Mr. MACKAY: Did you get your rent?

Mr. MCLEAN: O yes, I got my rent.

Mr. MacKay: Why didn't you charge sufficient rent to pay the taxes and look after it yourself?

Mr. McLean: I have that done on the farms.

The Chairman: Everyone who owns land ought to make inquiry from time to time if the taxes are paid.

Mr. McLean: I was over twenty years in Toronto and never had any bother before.

The Chairman: Your land was returned by the collector to the treasurer saying there was nobody on the land, the man had moved off

Mr. McLean: But the other tenant had come in in the meantime and he knew nothing about it, and then it was returned to the Township Treasurer that there was no one on it, but the next month there was one in the house.

The Chairman: How could they have found you if they wanted to give you notice?

Mr. McLean: If the tenant had been there when the collector came round he would have paid the taxes, no doubt, but in the meantime he moved away.

Mr. Justice MacMahon: It was the fault of the collector not coming around in time.

Mr. McLean: I suppose it was.

The Chairman: We will see whether the law requires any amending in that respect.

Mr. Thomas Rowland: I would like to say a word on these local improvements. I find it a great burden and would like some relief. I happen to own 200 feet on improved streets here, Yonge street for one, and 100 feet on Queen street and a house on Bloor street, and it is a perpetual mortgage on the property, it is nearly $300 a year.

The Chairman: On the three properties?

Mr. Rowland: On more than three properties, over 200 feet altogether. That $300 represents five per cent on about $60,000, which is apparently mortgaged.

The Chairman: $6,000 you mean?

Mr. Rowland: Yes, $6,000. It is something I can't get rid of; It has been there as long as I owned the property. First there was a block pavement on Yonge street.

Mr. Wilkie: D d you petition for any of them?

Mr. Rowland: No, I didn't; I tried to petition against it. It is almost impossible to petition against it for this reason: An asphalt walk was put down on Queen street from Yonge street clear down to the Don; well, in order to petition against that you had to go the whole length of the street and get two-thirds of the property owners to petition against it, which no man can do and it is an expensive job to hire men to do it. I think there should be some plan to have a standard roadway, and then if we want anything better we will pay for it. I am willing to improve my property, and Mr. Fleming says it always enhances the property; that is all nonsense, it does not always make the property more valuable. Take Bloor street from Yonge street to Avenue road, it is a macadam road; take where I live, from Yonge street to Sherbourne, which is asphalt, and I think property would sell just as well up here as it will down there where the asphalt is, right up here; some of the best residences belong to this very property.

Mr. Fleming: This is the best district; that is the reason.

Mr. Rowland: Well, that is a matter of opinion; I think mine is the best district; I think I have the prettiest view there; I look all over the ravines there.

Mr. Justice MacMahon: You see, you must pay something for the view.

Mr. Rowland: I don't object to that; I am willing to pay my share for it, but do let me have some time when I look forward to have the thing off the property.

Mr Wilkie: It is in ten years.

Mr. Rowland: But the chances are there will be more repairs or a new roadway. The best thing would be to have a standard roadway, and in Scotland I understand if it has a good foundation it will last for a hundred years; then when it is paid for it will take the mortgage off my property.

The Chairman: A good foundation ought to last a thousand years, as it has done in Italy

Mr. Rowland: That is what they say. I claim that that would encourage others to put down a good roadway, because they would see that when it is done it is paid for.

Mr. MacPherson: Who is it you wish to take the property off your hands—the Commissioners?

Mr. ROWLAND: No; I wish them to to take that burden off my property.

Mr. JUSTICE MACMAHON: He wants them to put down a roadway the same as the Romans did when they invaded Britain, and when this is paid for he wants to have no taxes at all in relation to any highway improvements.

Mr ROWLAND: That is about it. I want to get rid of this perpetual mortgage on my property, at any rate. And then there is the sidewalks the same way.

The CHAIRMAN: Can you show us how to do it?

Mr. ROWLAND? Yes; I think the simple way is when it is paid for let the city take it and keep it up—little enough; they might do that.

Mr. JUSTICE MACMAHON: That is, when once the local improvements are paid for, then the city should take over the whole of the roadways and maintain them forever?

Mr. ROWLAND: Yes.

Mr. WILKIE: Out of the general tax?

Mr. ROWLAND: Yes. I think they should pay a little towards putting that down, because it is a general benefit to the public. I don't think my property should stand the whole thing.

Mr. FLEMING: That proposition is before the Council now.

Commission adjourned at 4 o'clock till 10 30 a.m. to-morrow.

FOURTEENTH DAY, WEDNESDAY, NOVEMBER 28, 1900.

The Commission met at 10.30 a.m. Present:—All the Commissioners except Mr. Wilkie.

The SECRETARY read resolution of the Township of Fitzroy, recommending assessment of rural municipalities once in three years instead of annually.

The PRESIDENT: We shall now resume the subject which was before us yesterday, Local Improvements and any other subject which has not hitherto been considered by the Commission.

Mr. J. S. FULLERTON, Q.C.: Mr. President and Gentlemen of the Board,—There is a matter I mentioned to the Board last night that I would like to say a word more upon, or rather carry a step further. I pointed out that I thought it would be desirable in certain cases if an amendment could be made so that we could ascertain the whole cost of an undertaking before finally passing the by-law for the undertaking. I want now to suggest that it would be advisable in such cases that where an individual is to receive money for land that has been taken or used or injuriously affected, and his remaining land is to be taxed so that what he receives is to come back, or a portion of it, by way of taxation, the corporation should have power to retain in the first instance and pay off what would be taxed back against him, so that the money would not pass first into his hands from the corporation and then by a long process come back into the hands of the corporation again.

The CHAIRMAN: Your first point is that the cost should be ascertained before passing the by-law?

Mr. FULLERTON: Yes. I undertook last night to frame a section to cover that.

Mr. JUSTICE MACMAHON: The additional subject that you want to provide for is where the land of a man is injuriously affected.

Mr. FULLERTON: Is used, taken or injuriously affected, that the person who receives the money and has land remaining to be taxed for the cost, that the Council shall in the first instance ascertain the amount at which his tax ought to be commuted and return the money for that.

Mr. JUSTICE MACMAHON: Pay him the difference in cash?

Mr. FULLERTON: That is right, yes.

The CHAIRMAN: Applying this first principle to the case of the Don improvement you would go to all the expense of arbitrating with the owners, and afterwards decide to withdraw altogether from it?

Mr. FULLERTON: Yes.

Mr. JUSTICE MACMAHON: That is, in the event of its turning out to be a very expensive undertaking?

The CHAIRMAN: You may expend many thousands of dollars in experimenting?

Mr. FULLERTON: We may think it wiser, after spending that many thousands of dollars in experimenting, to abandon,

The CHAIRMAN: What difficulty is there in getting options on nine-tenths or five-sixths of the property before proceeding?

Mr. FULLERTON: There seems to be very great difficulty.

The CHAIRMAN: Then these options, if carried out, would almost be conclusive of the value of the other properties.

Mr. FULLERTON: I wish I had found it so.

The CHAIRMAN: Why would it not? Would any arbitrator disregard the actual prices obtained by others?

Mr. FULLERTON: Yes, they do. Let me give you one or two instances. In the Rosedale Valley Road—I was not in it, but I am speaking from information that is given to me—I know that about two-thirds of the people were arranged with and their prices agreed upon when taken. The MacPherson estate fought that, and on land that according to the valuation of the rest would only be worth $2,000 or $3,000—I do not pretend to have the exact figures—the learned arbitrator awarded $18,000 and costs. That was appealed, and it was sustained in appeal. It is land that went away beyond the average value of the other land, for perhaps the special reason that he gave. The road came right down against Yonge street at the point where Yonge street was thirty or forty feet higher than the ravine the road was in. Experts were brought there, and architects, to see what the value of the land would be if it was filled up to Yonge street and long computations and evidence covering hundreds of pages were made. The result was an award of $18,000.

Mr. JUSTICE MACMAHON: And a cost of $4,000 or $5,000?

Mr. FULLERTON: At least $6,000.

Mr. JUSTICE MACMAHON: In a case where there was one arbitrator in respect to sewer, the cost was $8,000. Why, it is simply monstrous.

Mr. FULLERTON: Take Sherbourne street, where we threw a bridge across the ravine. Of course the doctrine would not apply to saying we had expropriated so many or bought out so many, and putting these in evidence and saying, "These people agreed to that, and that is the evidence of the value of that;" in that case it was a single arbitrator for throwing a bridge across the ravine. We took an option from one man, but the result was an award of about $40,000.

Mr. JUSTICE MACMAHON: For benefiting his property?

Mr. FULLERTON: Well, he brought experts there and showed the scheme for building a large hotel there and putting a roadway down into the ravine and selling off all the lots down in the bottom of the ravine.

Mr. JUSTICE MACMAHON: Prospective profits on an expenditure of $1,000,000.

Mr. FULLERTON: The arbitrator, a learned judge usually very intelligent in his cases, but whose mind seems to go wrong, according to my view, on questions of this kind, gave an award of $40,000. A certain portion of that of course was injury to a building which I think was estimated at six or seven thousand dollars, a house that was really, undoubtedly damaged. Another 66 feet of land was taken which was very much on the edge of the ravine, but I have never been able by any computation in my mind to see where the justice came in. Now, what I thought as the proper thing would be if in cases of that kind we should ascertain the cost, and even after making the experiment if we found it was going to be too expensive, we were going to be charged too much altogether for the improvement, that we might be able to abandon it. I think the effect would be to bring some of those people to time. However, I throw out the suggestion, and in making our draft it will be in connection with the same clauses.

The CHAIRMAN: What was the other point?

Mr. FULLERTON: The second is that where a person whose land is to be taken is to receive compensation therefor, the amount of the tax that would be levied on land remaining to him can be deducted from the payment to be made to him. I fancy it is of a much larger application than cities. I think in rural municipalities it will very frequently come

in and aid them, though they may not go on the local improvement system. Perhaps it would only apply to a certain extent where they had the local improvement system.

The CHAIRMAN: How would you work that out?

Mr. FULLERTON: I will show in one case. We opened Gerrard St. from Carlaw Avenue to Greenwood Avenue, a distance of about ¾ of a mile.

The CHAIRMAN: You want to charge set off against compensation?

Mr. FULLERTON: That is what it is. In that case there were 138 vacant lots on which the cost was assessed back. Now the city have already bought in 72 of those lots for the taxes that were charged back.

The CHAIRMAN: That was a local improvement?

Mr. FULLERTON: That was a local improvement. There are no houses in the section. Carlaw Avenue is about three streets east of Broadview Avenue, which runs up by the jail, and Greenwood Aaenue is about three quarters of a mile further east. The subway is on Carlaw Avenue. Now, more than half of those lots on Gerrard St have come back to us for the taxes not paid. The money went into the hands of speculators, they sold these lands to persons desiring to buy, in many cases no doubt the people buy scarcely knowing what the tax was going to be; the speculator puts his road through, takes his money out, gets away, and the poor person who buys that lot is held for the taxes.

Mr. JUSTICE MACMAHON: In fact he sold his land to the corporation and he is quite content to pocket that?

Mr. FULLERTON: Quite content to pocket it.

The CHAIRMAN: Are you going to have more of those cases?

Mr. FULLERTON: Probably. That was largely a product of the boom, but more or less there are men buying land and endeavouring to boom it in that way all the time; and where a petition is put in for a road in a certain place it is practically the duty of the city to go on and put that in. The parties say they need it and they are willing to pay for it. Now if the money is taken out in that way and they don't get it in their hands it is going to largely stop that sort of thing. It would have prevented the boom from doing the damage in Toronto that it did do, in my opinion, and would largely prevent future booms occurring in other places where local improvements are in vogue.

The CHAIRMAN: What amount was taken in that case?

Mr. FULLERTON: Sixty-six feet width was taken for the whole length. The city opened a street on the petition of the parties desiring a street to be put through as a local improvement.

The CHAIRMAN: That is to say, he laid out a new street and the corporation bought the ground from him.

Mr. FULLERTON: The owners of the land lay out or suggest a street, petition to have a street.

The CHAIRMAN: But it does not follow that the corporation would pay him for the street which he was laying out for his own benefit; has that been done?

Mr. FULLERTON: That has been done over and over again.

Mr. JUSTICE MACMAHON: To petition, say, for a street to run in a certain direction in order that certain properties might be opened up?

Mr. FULLERTON: Exactly.

Mr. JUSTICE MACMAHON: And the cost of it or about the cost of it was stated?

Mr. FULLERTON: Yes.

Mr. JUSTICE MACMAHON: Then the city expropriated part of his land for the purpose of opening the street and paid him therefore, then the land in respect of which he made the claim on the city, or at least that he sold for the street, through which the street was opened by the city, was fronting on the highway?

Mr. FULLERTON: Fronting on the highway.

The CHAIRMAN: The price of the street was ascertained by a costly arbitration, I suppose, in the first place.

Mr. FULLERTON. Not necessarily in that case.

The CHAIRMAN: For which the city has got to pay; then they have got to pay the enterprising proprietor for the price of his land?

Mr. FULLERTON: Yes.

Mr. FLEMING: Two prices.

The CHAIRMAN: Then the next operation is to lay down a block pavement on this same road and charge it upon the adjacent property?

Mr. FULLERTON: Exactly.

The CHAIRMAN: They pay him for his land and then they look to the future for the taxes?

Mr. FULLERTON: For the taxes to come back from the land.

The CHAIRMAN: For the price of what they have done at his request?

Mr. FULLERTON: Yes.

Mr. JUSTICE MACMAHON: He sells the land to the corporation, and after he sells the land to the corporation he divides it up in lots and sells it to the public who are eager to buy?

Mr. FULLERTON: Yes.

Mr. JUSTICE MACMAHON: Then he takes the money from the corporation and puts it in his pocket, and what he can get from the purchasers, and he has made a good thing and he can emigrate then.

Mr. FULLERTON: I know of cases where an individual received about $5,000 from the corporation, sold the lots or most of them, of some other land remaining, and is now objecting to pay for the taxes on the land remaining.

The CHAIRMAN: It seems to require some remedy.

Mr. FULLERTON: I think the law should be that it should be compulsory on the corporation in such a case to commute the tax beforehand.

Mr. JUSTICE MACMAHON: Yes, to know exactly their position as far as the money payment is concerned.

Mr. FULLERTON: Yes; it is easier to suggest a case perhaps than it will be to draft the remedy, but I will do the best I can in suggesting what I think the legislation should be.

Mr. JUSTICE MACMAHON: I think it is very advisable that a by-law should be passed after the work is completed and get as near an estimate as you can, then when the by-law is passed, after the work is completed, there is no trouble, you have no law suits, no litigation, as there generally is in the other case. The machinery is too complicated for easy work.

Mr. FLEMING: The people go into these improvements with the best intention, perhaps thinking that they will get out of the corporation two or three hundred dollars for the land that is taken. Now after the city has been committed to the work they think it is legitimate to bring forward evidence to prove that instead of their being entitled to two or three hundred dollars, what they originally expected, they are entitled to two or three thousand dollars.

The CHAIRMAN: This is on the first point?

Mr. FLEMING: Yes, and the result of that is that the corporation make an estimate frequently of what they expect they can buy this property for. There are difficulties in getting the options that I referred to yesterday. The corporation make an estimate and that estimate goes through the council. Then after all the expropriating has been done we find that the property has frequently cost four times the original estimate, and the result is people go into the court then and say, "We are misled as to the cost of this property and we are not going to pay," and there are numerous cases where thousands of dollars have been saddled upon the municipality.

The CHAIRMAN: These improvements are usually asked for?

Mr. FLEMING: Nearly always, invariably.

The CHAIRMAN: You should say to the people who ask for it, "Get your options on the whole property, and if you do it will be done or considered."

Mr. FLEMING: That is exactly what a private individual would try to do.

The CHAIRMAN: It is a thing that was not attempted to be done in the Don case.

Mr. FLEMING: Well, I don't know much about that, I hadn't anything to do with it, but is utterly impossible to secure options.

The CHAIRMAN: It was heralded as a great scheme that was going to increase the value of property enormously before a single act was done, and when the property was blown up like that by these means then they went to work and had these arbitrations.

Mr. FLEMING: Well, if they could have secured their arbitration beforehand and taken the property and known exactly what it was going to cost, the city would never

have gone on with that work; they would say, "We would rather lose the $10,000 we have paid out in expenses than be put into hundreds of thousands," as they were in that case.

Mr. JUSTICE MACMAHON: The city never seems to act in the same manner that a business man would act in connection with a transaction of his own, and therefore they are always stuck for law suits and costs.

Mr. FULLERTON: They cannot, Mr. Chairman.

The CHAIRMAN: They don't.

Mr. FULLERTON: Well, we cannot have a committee meeting that is not open to the press and public. The result is that a scheme is not suggested until it is known to everybody.

Mr. JUSTICE MACMAHON: It may be The corporation ought to be very chary about taking up schemes until they know what the cost is going to be. Take the cost of this subway, it was supposed to be known exactly what the expenditure will be and how it is to be apportioned and all.

Mr. FULLERTON: I know that for the last two years speculators have looking after land on Lansdowne Avenue and making inquiries and going into different offices to find out what the chances were of that going on so as to see whether to buy or not to buy before, to see what they could make out of it.

Mr. FLEMING: Take a case—I hope the newspapers won't refer to this—but just that Landsdowne Avenue; there is a piece of property there that I am quite satisfied could have been bought a year and a half ago, before the subway was talked about, for possibly $8000; I am satisfied it would not sell for that in the market. Immediatedly the Railway Committee of the Privy Council ordered that subway to be made the property changed hands, and I went to the person who has got it now for an option. He would not give any option, he said, "I prefer to go before the Official Arbitrator." I said, "Well let me have an option on the property then" He replied, "No, I won't; I will take $25,000 for the property." "Why," I said, "You can go and buy such land on the opposite side of the street for $6000 or $7000." He replied, "Oh, nonsense, it would not suit this purpose, there is no comparison." Of course one property is as good as the other, but he won't give an option on his property and he is asking $25 000. Now if the city want that property he is going to go to the expense of an expensive arbitration. If the city had power to find out what the cost of that work is going to be he would not be so anxious to get his $25,000 because he would know that the work was never to be undertaken. The Chairman suggested that the price the city pays for one property would have an affect on the adjoining property. I will state a case in the Queen St. subway. There were three stores. They are all on a grade; possibly the most easterly store would be a foot more affected than the most westerly.

Mr. FULLERTON: The grade of each store was about 18 inches.

Mr. FLEMING: We settled with the Toronto General Trust Co. for the store that was most affected, with a grade of 18 inches, for $300. The three were in a block. Some other company had the most westerly of the three and we settled with them for $250. The owner of the middle store said, "We are not going to settle." Well, I left it over until about the last, hoping I would get it settled with them, and offered them $500. They said they would not take that. Well, I am satisfied it was more than the property was injured. They went to arbitration and they brought forward evidence to prove that their store was affected to the extent of between $1100 and $1200, and in addition to that the arbitrator allowed them for two years rent of the premises although it was proven that the property had not been rented for years before, nor had it been rented for a year after the subway had been completed, not up till the time the arbitration had being held That property cost the city about $1500 and the expenses of the arbitration, whereas the adjoining property was settled for $300 and for $250, and evidence of that settlement was put in.

Mr. BUTLER: You must have got an unfortunate arbitrator.

Mr. FLEMING: The arbitrator means right. In another case where the city put a sewer through the property the arbitrator gave $35,000 award; that was not the present arbitrator. The city proved conclusively, as they thought, that the property was benefited instead of injured. The arbitrator said, "There were 20 or 30 witnesses upon each side; the one swore it was injured anywhere from $35,000 to $70,000; the other side

swore it was benefited up to $20,000; I took between the two and gave $35,000." If the city had known it was going to cost $35,000 they would never have dreamed of doing the work.

Mr. JUSTICE MACMAHON: Then the arbitrators' costs amounted to $8,000 in that case?

Mr. FLEMING: Yes.

The CHAIRMAN: That was the Prittie case?

Mr. FLEMING: Yes.

The CHAIRMAN: Was there not the power to recede there?

Mr. FLEMING: No. We could have sent it back to the arbitrator, but the Council at the time thought the best thing was to get out of it the best way possible. Of course we try now to avoid these things. Then there is another case, the opening of the new reservoir, which cost the city some $16,000. Another case where a gentleman had a street put through his property, he received from the city some $7,000 or $8,000 in cash, he has never paid one five-cent piece of taxes; it is vacant land which is up now for sale, and the city will likely buy it for about one-half what it originally paid him for the strip that it took from it.

Mr. BUTLER: After all, what they are asking is substantially what the Railway Committee gives railways power to do, to desist after having the arbitration.

Mr. FLEMING: We should have the power to make out the cost and make an assessment so the city would not be saddled with any of these works that are of no special benefit to the city.

Mr. JUSTICE MACMAHON: I think a change should be made in the law to enable the city to recede when they find the work is going to cost far more than was calculated on when it was petitioned for.

The CHAIRMAN: You were talking about the Queen street subway; how is it the city would have to pay anything for the railway crossings there?

Mr. FLEMING: It is not for railway crossings.

Mr. FULLERTON: We did have to pay for the railway crossings in increasing the subway, in this way—

The CHAIRMAN: You had a street there?

Mr. FULLERTON: Yes

The CHAIRMAN: It was your property?

Mr. FULLERTON: Yes, but Parkdale made the mistake of taking a 40 feet subway, and that was constructed.

The CHAIRMAN: This is not in Parkdale?

Mr. FULLERTON: It is half way between Parkdale and Toronto.

The CHAIRMAN: I am speaking of the King street subway.

Mr. FULLERTON: I cannot tell you about that, it has never been through my hands.

The CHAIRMAN: How is it that the municipality has ever had to pay anything whatever to enable the railways to cross the street in safety?

Mr. FULLERTON: All I can tell you is that agreements were made between the railways themselves and the city.

The CHAIRMAN: Why?

Mr. FULLERTON: I think they were forced to do that.

The CHAIRMAN: Were the railways not bound to do everything that was necessary to cross a public highway in safety?

Mr. FULLERTON: Of course the holding of the Railway Committee is that in a case of that kind they can apportion.

The CHAIRMAN: Then the Railway Committee ought to observe the law if it is properly brought to their attention.

Mr. FULLERTON: The Railway Committee has held in cases of that kind, even if the city is the holder, that they can apportion the costs.

The CHAIRMAN: That is because they don't observe the law.

Mr. FULLERTON: They have done so.

The CHAIRMAN: Suppose it was private property they want to cross, must they not cross it with safety to everybody and at their own expense?

Mr. FULLERTON; Certainly, that would seem to be the reasonable rule.

The CHAIRMAN: Make the land owner pay half the expense of crossing his own property?

Mr. BUTLER: The Railway Committee do that.

The CHAIRMAN: They have been doing it; I suppose their attention is not called to the rights of the municipality.

Mr. FULLERTON: I am not acquainted with the manner in which King street was opened up.

The CHAIRMAN: Queen street was also a public highway, and municipalities have been mulcted in perhaps half a million dollars in that crossing.

Mr. FULLERTON: The cost of the last subway was perhaps $130,000 odd.

The CHAIRMAN: To enable the railway companies to get safely across the municipal property?

Mr. FULLERTON: All I can say is that there the city had gone to the Railway Committee, had been referred back and an agreement was being made by reason of that reference back when it came into my hands.

The CHAIRMAN: I know the whole history of it.

Mr. FLEMING: There is a more glaring case even than that, that is the Dundas bridges, where the city has to pay nearly $100,000.

The CHAIRMAN: There was no original highway there.

Mr. FLEMING: Yes, and the bridge was put up by the railway company, but the city foolishly had entered into a bargain with them.

Mr. FULLERTON: It was a trespass roadway that had grown up into a highway.

Mr. JUSTICE MACMAHON: That was the mistake there. Accidents became so numerous that there was a demand for a subway, and then the Railway Committee said, "The inhabitants of Toronto demand that they should be protected, and we are going to protect them, but we will make them pay."

Mr FLEMING: That subway was built largely because of the acts of the railway endangering people's lives, and there was an agreement entered into; the bridge was supposed to cost $150,000 and the railway was to pay $75,000, but anything in excess of that was to be paid by the city, and the result of that was that the work cost over a quarter of a million dollars.

Mr. FULLERTON: I was going to give a further illustration of the house at Queen Street subway. The arbitrator took into consideration how much it would cost to drop the floor of the house, to deepen the cellar, to rebuild the walls, and leave the building in the same position to the highway as it was before the subway was there. Working it out in that way he got at that result. The evidence showed more, in fact; he was moderate when he took that way of computing, but I thought it was an unfair way of getting at the result.

The CHAIRMAN: Has anyone else anything to say on the subject of local improvements or any other subject that has not been before us?

Mr. GEORGE J. BRYAN: Mr. Chairman and Gentlemen:—Yesterday afternoon a number of speakers drew your attention to some extent to the principle of local option in taxation. I take it that you are desirous of having all the light that is possible to be thrown upon this subject. Having given it a little study for some years, I think I may shed a little light upon the question, which may cause you to be favourable to the suggestion made. This principle is not new. In various countries the principle has been embodied in law. In British Columbia, since the year 1896, they have brought that principle into play, and right up to the present time it has worked with the greatest possible satisfaction. The principle is not worked out in its entirety, it is only partially applied; but so far as it applies it has given great satisfaction. Under it a number of municipalities have the option of changing the mode of assessment, and in so far as these changes have been made, there have been no conflicts whatever. As an illustration, one municipality may levy a tax of say 25 per cent. upon the value of improvements; another may levy a tax of 50 per cent. on improvements. There has been no conflict whatever in that case, thus shutting off the possibility of any confusion arising from differences of the methods employed in different places. In the Northwest Territories as far back as 1896, I believe, the principle was tacked on to the law. It applies throughout the whole Territories; every municipality is permitted to change, reduce or abolish the taxes on buildings, personalty, merchandise, tools of trade and income. This law may be brought into operation by a vote of the Municipal Council or by a percentage of the voters petitioning for it. I must say that in this Territory no municipality has availed themselves of the

law, for the reason, as I understand, and as I am informed by a member of the Northwest Legislature, that they do not quite understand the methods of taxation in all its bearings. I would draw your special attention to the country in which this principle is working to-day, that of New Zealand. In 1896 the law was introduced by the Hon. Mr. Sedden, and from that time up to the present the Legislature has amended the law in various particulars, making it more workable in operation. Since the law has been applied each year one or more municipalities have availed themselves of it, and to-day there are over twenty different municipalities, taxing bodies, who have availed themselves of the law. I have gone carefully over the records as to the working of the law, and I have not yet been able to find one objection against it. A short time ago I had the pleasure of talking with the Hon. Mr. Edward Withey, who stated that in various municipalities since this law has been put in operation the incidence of taxation has been changed, giving the advantage to the municipality; that it has wiped out in many cases injustice which, under the old law as it worked, could not have been treated with, and the voters as a whole express themselves as satisfied with the changes that have been made. The law as it stands is in effect what I have stated applies partially to British Columbia and the Northwest Territories. It permits the Municipal Council to reduce the tax upon buildings or wipe it out altogether. In that country there is no tax upon personal property, thus a great part of the difficulty has been wiped out of the way. In 1893 there was a tax upon personal property levied by the Colonial Government that has since been wiped out. At that time there was also a general property tax levied upon buildings and real estate that has been wiped out, but they have a tax of two or three pennies on the pound on land which returns considerable revenue to the Government.

The CHAIRMAN: You are distinguishing between the Government tax and the municipal tax?

Mr. BRYAN: That has really nothing to do with the local option feature. There is no tax levied on personal property municipally in New Zealand.

Mr. JUSTICE MACMAHON: Then the tax that went to the hands of the Government was the real property tax?

Mr. BRYAN: Yes, sir.

The CHAIRMAN: So that there was a Government tax on real estate, and besides that a municipal tax.

Mr. BRYAN: Yes, sir, that was a general property tax.

Mr. JUSTICE MACMAHON: It was a fixed tax?

Mr. BRYAN: Yes, it was a fixed tax. That was wiped out at the time of the great changes in Government which took place about 1893 At that time New Zealand was in a very bad plight, and the Government saw fit to make these changes I have indicated.

The CHAIRMAN: And that was followed by prosperity?

Mr. BRYAN: Yes, sir. Referring to the tendency of thought along this line, I may say that in the United States, foremost reformers in taxation have been advocating this principle as a mere solution of the tax problems that have presented themselves. In the various State Legislatures the question has been brought out in the form of a resolution, notably in six or seven States—New York, California, Washington, Kentucky, Colorado, Minnesota, Ohio and one or two others—and wherever the question has been brought up the Legislatures have endorsed the principle by a majority vote. In those various States, however, there is a Senate which again passes upon these questions, and as the Senate is not a representative body and, as a consequence, is composed of class interests, when this question came before them, without exception they defeated this principle, but notwithstanding their opposition the agitation is still continued. The effort to bring this principle into practical working is not applied to any section of the community at all. I noticed here yesterday two or three gentlemen, as single taxers, suggested this; but I may say from knowledge of the question that not alone do single taxers support this resolution, but business men, real estate boards, legislators, tax commissioners, have invariably taken a stand upon this question and supported it, so that it is not in any sense what it is sometimes termed, a single tax measure. It is proposed because it will enable municipal authorities in the best and easiest possible manner to arrive at a solution of those problems which seem to be most difficult of solution. I want to quote here the opinion of the Hon. David A. Wells, who was well known as an economist, and who recently passed away: "I am greatly in favour of the local option principle, and as your

proposed by law is framed I can see no objection to it. It is, in fact, a novel method practically of educating the people in respect of good and bad methods of taxation, and not merely the local taxpayers of New York but of the whole country. As it is, the taxpayer is bound down to a system to which no elasticity can be given except by knavery and perjury; it is contrary to the world's experience and best judgment of those who have carefully studied the subject, and he has no incentive to reason for himself with a view to obtain anything better, because he feels that he cannot get the Legislature to pay any attention to his conclusions. If permission to experiment on a smaller sphere is granted by the proposed bill, the taxpayers will take an interest in the subject and results will certainly be achieved to which the Legislature will give attention, because the argument of mere theory can no longer be urged in opposition." I think that opinion should carry a great deal of weight. But there is one point that bears here, that wherever these questions have been brought before the Legislature at any time to get a satisfactory solution, there have been continued amendments and re-amendments of the law that have been invariably in the wrong direction.

The CHAIRMAN: You think the Municipal Councils are wiser than the Legislature?

Mr. BRYAN: They are better fitted.

The CHAIRMAN: Why?—It is the very business of the Legislature.

Mr. BRYAN: Because they know their needs better than any Legislature.

The CHAIRMAN: Then they should send men there that could represent their needs.

Mr. BRYAN: You must understand, Mr. Chairman, that the legislator has to treat with a thousand and one questions during the session, and the knowledge that he has—

The CHAIRMAN: That is what they are there for. You would not distribute the whole thousand and one among the municipalities so far as they are concerned?

Mr. BRYAN: No, but my simple contention is—

The CHAIRMAN: That would be chaos, wouldn't it?—you would abolish the Legislature; it would have no function if you would let every municipality be its own Legislature.

Mr. BRYAN: The simple point is this, that the community to-day have the power of the law to expend their moneys any way they see fit to a certain amount; they have a right to go ahead with any public improvement they desire, and it is not the business of the Legislature nor of any municipality to interfere with their right in this respect. The laws sanction this power, but it does not give them power to say how they shall pay for those improvements. I maintain that they should have this power. We have to meet the expenditures involved; we are best able to say how these expenditures should be met; the Councils of this community know the sentiment existing in the community better than any farmer, who represents a country district and who comes before the Legislature and wants to produce a law applying to Toronto that he knows nothing about.

The CHAIRMAN: He wants option in his own municipality.

Mr. BRYAN: He gets it. The majority of the members of the Legislature are residents of the farming districts. They have passed laws invariably in their own interests. As an instance of this, there is the taxation law which applies to the farming community, where exemptions are made largely in the interest of the farmers; but I question very much whether these same farmers would be fair enough to say, "Because we have these exemptions we also maintain that the cities and towns should have the same privilege." They pass laws in their own interests, but they are not prepared to pass laws in the interests of the cities and towns, notwithstanding the fact that it makes no particle of difference to them how Toronto or any other city raises its revenue—none of their business whatever. In 1894 or 1895 I invited the opinion of Hon. W. R. Meredith, now Chief Justice, in respect to this local option, and he replied to me and said, "I see no reason why any municipality should not have the right to raise its taxes as it saw fit." I wish to give the opinion of Mr. Thomas G. Shearman, a name very high among authorities. He says:—"The simple, safe, reasonable and practical solution of this question of local taxation is to commit it to local governments for decision. There are further reasons for this course"—

The CHAIRMAN: He is speaking in reference to his own country?

Mr. BRYAN: Yes, sir. "Although all Europe has tried and discredited taxation of personal property, our own people have grown up under an opposite theory. Every state

tries to tax it. No American has any personal experience of the system which does not pretend to taxation. Few Americans can know or care anything about the experience of other nations. As an experiment this proposition must be treated, and it is decidedly wise to make fiscal and social experiments on a small scale in the first instance. If there is any doubt as to the wisdom of the change it is much better to try it in the country first rather than in an entire state. Eminent authorities on political science have emphatically expressed their belief in experiments on social problems in the sections instead of the entire country." The advantage of a local option law in this Province is that it does not commit the whole Province to any definite plan of taxation. If any municipality does not desire to avail themselves of the law in making any change in the mode of assessment, they are at liberty to maintain the old method, but if, say, the city of Toronto or the city of Hamilton or any town desired to reduce the taxation on the buildings, for instance, they should have that right; and if they do make these changes—and no matter in what way the changes are made—there is no conflict, there is no confusion, there can be no more confusion in the mode of assessment than there is in our present assessment.

Mr. JUSTICE MACMAHON: I dare say that in rural municipalities local option could be very easily managed. In large cities and towns it may be somewhat difficult to deal with local option.

Mr. BRYAN: I venture to differ with that expression.

Mr. JUSTICE MACMAHON: I am putting it forward in order that you may enlighten us.

Mr. BRYAN: Well, I would illustrate it in this way. Assuming the present law as it stands; we desire in this community to make a change; for instance, a percentage of voters would sign a petition that taxes upon merchandise, personalty, be abolished; this petition would be presented to the council; the council would have power under the law to say that personalty shall be abolished; or it may have the question determined by submitting it from the referendum to the people. They then by a majority vote decide how the change shall be made, whether they favour that change or not; it lies with the citizens. Surely they are in a position to know their needs in that particular respect. Assuming then that the change were made, that the taxes upon merchandise ceased to be, according to their express will, it then lies with the city authorities to say just the tax levied so that the loss from that particular source will be made up by spreading it over the remaining property which is taxable, and as was pointed out, there is such a small percentage of personal property which bears taxation that the amount to be made up is so comparatively small that it would not be felt. So with respect to any other changes.

The CHAIRMAN: Your subject is gradually getting a little broader.

Mr. BRYAN: It has more or less bearing on the point, in reply to the question of Mr. Justice MacMahon.

Mr. JUSTICE MACMAHON: It is just the general proposition that struck me, that it would be somewhat difficult to deal with local option in cities

Mr. BRYAN: I have not found it out by reading the opinions of men—

Mr. JUSTICE MACMAHON: You appeal to the referendum.

Mr. BRYAN: I have confidence in the people.

Mr. JUSTICE MACMAHON: Certainly, and the small holders would say, "Oh, here are all the rich merchants, I think we will put the tax on their stocks." The rich merchants say, "There are corporations here that are monopolies, I think we will just put the taxes on them." You get the referendum, it would work in about that shape.

Mr. BRYAN: I have suggested this principle with a certain amount of limitation. For instance, I would not include in any local option bill the power—

Mr. JUSTICE MACMAHON: You see, to work it out to its logical conclusion, the local option must work as well in New York as it works in Toronto or as it would work in Hamilton or London or Brantford or any of those places. Now the State Legislature said two or three years ago, "We will tax the Central Railway $12,000,000 for entering into New York" That ended that. That is, the State Board found that the railway for its entrance, including passage from New York, ought to pay that amount. If that was to go to a referendum how would it be treated?

Mr. BRYAN: I don't wish you to misunderstand me. I offer this principle of local option with certain limitations. In the first place—

Mr. JUSTICE MACMAHON: You would make so many exceptions that the local option would not be operative.

Mr BRYAN: I believe the people are not certainly advanced in some directions sufficiently to push forward the principle in its proper sense as relating, for instance, to the taxing of franchise, the taxing of other corporations, or singling out for taxing special corporations. For instance, I would not delegate the power to the community to levy a special tax directed against departmental stores. I would say that they are usurping the powers of government, and the Government has not a right to single out any special class for special taxation. No, it is simply to take property which is possessed is by the average citizen, which comes under the head of his real estate and his personalty and his income; these are the factors which I would embrace in this law which I would allow the municipalities to determine for themselves. Personally I should be disposed to wipe out entirely the taxes upon business personalty, but assuming that the community were not sufficiently advanced to agree to that proposition, I would leave it to the municipalities to determine. Then again, with regard to the exemption applied to churches and educational institutions. Now the Legislature may deem it right that these exemptions should exist, but the consensus of opinion in this Province, I believe, is opposed to the whole exemption applied to these institutions, therefore I would say that if the Legislature would go this far, that it would leave it to the people of the municipality to determine whether these institutions should have that exemption, I believe their wisdom would soon bring about a solution of it. There are some other questions that might be involved.

Mr JUSTICE MACMAHON: We are getting into exemptions again.

Mr. BRYAN: Pardon, me, sir, I am not one of those visionary gentlemen. Then again, with regard to the rental tax, it is optional with municipalities to apply that. So far the Council has not seen fit to adopt it, I believe because it has not been thoroughly understood.

Mr. MACKAY: Has it been adopted?

Mr. BRYAN: It has not been adopted in any town or city, but in some smaller municipalities they have practically made a little application of it. I should be inclined to make it optional with a municipality to continue that optional feature of the business rental tax, and put it in this way: any municipal corporation may have the right to change, reduce or abolish the taxes upon buildings, upon merchandise, upon personalty or upon income, or they may tax any interest, or they may apply a rental tax to make up any deficiency. I would make it sufficiently elastic so that there would not be any difficulty in understanding it, or any difficulty whereby it might be put in operation.

Mr. BUTLER: Would you limit it so that there must be equality of taxation?

Mr. BRYAN: I am of opinion that every individual, whether he possesses property or not, is a taxpayer.

Mr BUTLER: I mean to say would you apply it in such a way on any given property?

Mr. BRYAN: I would apply it on the single vote principle by which under the present law the ratepayers determine these questions

Mr. BUTLER: You would leave it so that a section, for instance, that sought to punish one particular line could do so if they chose?

Mr. BRYAN: I fail to see that they are going to do anything rash in that respect.

Mr. BUTLER: Assume they want to do it, would you leave them the power to do it?

Mr. BRYAN: As a matter of fact they have the right, but under this submission that I make that would not be possible.

Mr. BUTLER: You would give them the power?

Mr. BRYAN: It would not be possible; I would limit it. At one time the Toronto *Globe* expressed itself in this way: "It seems a weak point in our municipal system that it precludes the possibility of experiment. And as changes are effected from year to year they must be made for better or worse by every municipality in the Province. But the provisions of the Provincial capital are so exceptional in many respects that it affords no opportunity of comparing the respective merits of different systems working under similar difficulties. When opinions are diverse and even chaotic, as they are upon many questions of municipal policy, the policy of experimenting might prove advantageous. There would be no danger attending a slight relaxation in the laws which impose absolute uniformity in all things." I may say to Mr. Butler that I would not suggest local option if I thought for a moment that it would delegate to some members of the community the power to apply oppressive measures to any other section of the community; and I believe it is within the power of the men who will draft such a bill to avoid that, so that there would be no danger at all.

Mr. JUSTICE MACMAHON: Then what you would suggest is that the Legislature should pass a tenative measure applicable to a certain portion of the Province in order that local option might be tested?

Mr. BRYAN: Exactly, and here is another point: we have seen from many years of experience of our present methods of taxation that there is a great deal of perplexity and confusion arising from it, that the opinions are very diverse. Under the operation of this law we would have an opportunity within the course of a year or two of finding out just how the changes are working in the different municipalities, no matter what changes were made in Toronto or Hamilton or in similar towns the Legislature would be in a position after a few years trial of the changes made, of knowing whether the thing was workable or not. You simply have to refer to the experience in New Zealand to know that they are working satisfactorily there, but we want to try here. We don't see why we should not have that opportunity.

Mr. MACKAY: It would cause competition between municipalities somewhat similar to the bonus system.

Mr. BRYAN: That question arose in the Legislature some years ago when Mr. Waters was introducing the bill on the abolition of the personalty tax. That point is a little debateable. It might have a tendency, for instance, to place Toronto in a specially advantageous position, or Hamilton in a specially advantageous position. If Hamilton saw fit to exempt all capital from taxation I believe as a result capital would largely gradually move in the direction of Hamilton where taxation is light and where it was encouraged to locate industries. Well, if other municipalities saw that Hamilton was profiting by the introduction of new capital and necessarily gaining as a result over other municipalities by thus encouraging fresh capital, I believe other municipalities would wisely adopt the same plan that Hamilton adopts. Therefore the temporary objection would be eliminated by the general benefits, and results that would follow to the other municipalities who saw the advantages of the working system. That is the point, we would immediately have the lesson before us; if the plan worked satisfactorily in one or more municipalities and they are deriving a great gain and people are profited and it is bringing great prosperity and wealth to the municipality, then it stands to reason that other municipalities will adopt the plan. Then we as a community, as a Province, would be in a more advantageous position than some States in the American Union where they still impose taxation on wealth. I may say further that a great number of the newspapers support this principle in our own midst. The *Canada Farmers' Sun* has expressed in its favour, the Toronto *News* and Toronto *World* have expressed themselves favourably to us in this matter.

Mr. JUSTICE MACMAHON: The other great exponents of public opinion are silent?

Mr. BRYAN: I don't know. Some of them are and some of them are not. I think I have devoted sufficient time on this question.

The CHAIRMAN: You have presented the case with great force, Mr. Bryan.

Mr. R. J. FLEMING (Assessment Commissioner, Toronto): There is a matter I would like to speak of for a moment, just a couple of suggestions I would like to make. The first was, I thought perhaps it would be an improvement to the Assessment Act if you were to give assessors and assessment commissioners power to ask for a declaration as to a man's personal property or income assuming that the present law remains upon the statute book, and if it were changed to a business tax and a tax upon income, a declaration would be just as essential. At the present time the assessors have the right to go into a man's store and value his goods, a very hard thing to do exactly, and sometimes assessors are sceptical as to the value of the goods that the owner says he has upon the premises. There is the remedy. If the assessor goes into a store and the owner says, "My goods are worth $10,000 but I owe $8,000 upon them," it may be a man whose rating is given in Bradstreets as being a great deal better than that, and the assessor is not justified in taking his statement, and he cannot protect himself from the Council or Court of Revision if the case would come up if he were to take the statement, so he has to assess the man for $10,000 and go to the trouble of making the man come before the Court of Revision. We think sometimes that is a hardship, and if we had the power to ask the man to give a declaration as to his exact standing it would facilitate very much the work of the department. The second suggestion is as to the investigation of a man's accounts in public. I think that system is wrong. The assessors go into a merchant's

office and sit down and he tells exactly the position of affairs, and frequently he will say, "Now, I don't want to make this public because if I did it will injure me in the bank, I have had a bad year and business may be better next year," and the Assessment Department assess the man for what is right and fair. Now any man has a right to appeal against that man's assessment and bring that man before the Court of Revision and to the County Judge and discuss those matters in public. I think the County Judge should have the power of investigating that man's accounts in private and trying the case in private, or that just such representatives as he really thinks in the interest of the public should be present. I think that suggestion is in the right line. I think perhaps that change that you speak of may be embodied in the sections of the Act that you are preparing.

Mr. MacPherson : You ask people now, merchants, to make declarations?

Mr. Fleming : No, we very rarely do. We have the power to do it. We go in and ask a merchant for his goods. He says, "I have only $2000 worth of goods," and we see $20,000 worth of goods there, and we have either to put a large assessment on him and make him go before the Court of Revision—a thing which we don't like to do—and we think if we had the power to take a statutory declaration as to his standing it would be a better way to do it.

Mr. Fullerton : Sections which appertain to this are sec. 47, 48, 49 and 50 of the Assessment Act, and the inadequacy of these sections would be very apparent on reading the fines imposed by s. s. 2

Mr. MacPherson : You must remember it is very hard for any merchant to give a statement of exactly how he stands.

Mr. Fullerton : Possibly. Is must be to the best of his knowledge and belief approximately, and then that will be subject to the discretion of the Commissioner, who in most cases I take it would be fairly discreet in dealing with matters of that kind ; but there should be some means of getting from each firm or corporation a statement to the best of their ability. It is the only means of getting at incomes and personalties so as to establish equality. If the person makes a private inquisition we think they should make that.

The Chairman : You think the penalty is wholly inadequate?

Mr. Fullerton : I do, I think the penalty ought to be repeated and repeated until the statement comes.

The Chairman : In your experience have the penalties been imposed in numerous cases?

Mr. Fullerton : No case has come to me where the penalty has been imposed.

The Chairman : Even the small penalty?

Mr. Fullerton : I knew of one case a short time ago where they were threatened ; I never knew of that being imposed.

Mr. Fleming : We have asked for these and we have been told that we would not get them. We have known what the penalty is and we have not desired to make it public, and we have suffered rather than let every person know that they could refuse to give us a statement on payment of such a small sum.

The Chairman : You would increase those penalties?

Mr. Fullerton : I do not know that the penalty should be increased, but I think the penalty should be repeated day after day until the statement comes. When the matter is brought up the magistrate should be able to impose a fine of $100 a day until the statement is brought in.

Mr. Justice MacMahon : With power to remit?

Mr. Fullerton : Certainly. As it stands to day this is no obligation at all ; it gives no power to the Assessment Commissioner ; it simply leaves them to laugh at us in case we talk of taking proceedings where the tax is large.

The Chairman : There would be some discredit besides the penalty?

Mr. Fullerton : Possibly that might amount to something.

The Chairman : Does not that mean a great deal?

Mr. Fullerton : It depends on the man. To some men it would mean a great deal.

Mr. Chairman : Take the average man.

Mr. Justice MacMahon : I suppose the man ought not to be considered at all. If it is dealt with as is defrauding the revenue of the country it might just as well be dealt

with as defrauding the revenue of a city. In paying the duty on goods a man has to make a declaration or take an oath that the statement is true. He has to produce evidence that his statement is correct, and he pays the duty to the Government on the statement so made, or he is guilty of fraud.

The CHAIRMAN: There is a very large forfeiture.

Mr. JUSTICE MACMAHON: There is a very large forfeiture. I don't see why there should not be some sort of measure whereby the owner of goods who wants to defraud the city government should pay.

Mr. FULLERTON: I do not think the disgrace would be as much as you suggest, Mr. President. Suppose a board of directors direct a statement not to be given by the Secretary; the Secretary comes into court and says, "I cannot give that." The fine is imposed of $100. What particular discredit is it to him? The $100 is paid and there is an end of it. Nobody would take his word a bit the less; indeed they would think a man that would refuse to give a statement and say anything that was untrue, and would pay $100, would be entitled to credit for it. Some of them might have a poor opinion of the moral force of it.

The CHAIRMAN: If the penalty is not enforced you cannot tell what the effect of it would have been.

Mr. FULLERTON: I know what the effect would have been if it was wrong.

The CHAIRMAN: You know what the effect would be if it was defrauding the revenue of the country?

Mr. FULLERTON: There the penalties are more effective because they have means of finding out what the amount is, and I know in England the same plan is adopted, but there the officer gets the affidavits as to income, etc. There is this further, I believe that there is a particular officer sworn to keep secret the results that are sworn to him.

The CHAIRMAN: The present penalty is for not delivering a statement, and also for delivering a false statement?

Mr. FULLERTON: Yes.

The CHAIRMAN: Are there any instances in which a statement has been refused?

Mr. FULLERTON: I am told there are dozens of them, that every year they are refused.

Mr. FLEMING: Scores of them.

Mr. FULLERTON: We don't get half of them.

The CHAIRMAN: I am surprised that the penalty has not been imposed when a statement has been refused. However, your argument is that the penalty is too small?

Mr. FULLERTON: I think the penalty ought to be increased. I think the statements instead of being made in writing should be a sworn statement.

The CHAIRMAN: What would be the use of increasing the penalty if if is never enforced?

Mr. FULLERTON: Of course the reason for not inflicting the penalty up to date is that it was undesirable to make it generally known that it was so small.

The CHAIRMAN: So small that it is assumed it would be useless?

Mr. FULLERTON: That has been the assumption, and that is what has always struck me.

Mr. JUSTICE MACMAHON: Suppose the declaration is brought in under the perjury class, there would not be many false declarations.

Mr. FULLERTON: There would be none among the respectable members of the community. Managers of corporations and heads of financial and commercial institutions would not be guilty of that.

The CHAIRMAN: There is no prosecution for either non-delivery or for false delivery?

Mr. FULLERTON: There have been none for either—

The Commission adjourned at 12.30 till 10.30 to-morrow, to hear the manufacturers on the subject of their assessment.

FIFTEENTH DAY. THURSDAY, NOVEMBER 29TH, 1900.

Commission met at 10 30 a.m.
Present :—All the Commissioners.

The CHAIRMAN: This day was appointed specially to hear what the Manufacturers had to say to the Commission, and the Commission is now ready to hear anybody on their behalf.

Mr. P. W. ELLIS: Agreeably with the understanding arrived at when we appeared before you last week, we have communicated with the members of the Association throughout the Province of Ontario and have prepared in writing the substance of the replies we have received from them. If you wish, I will read the memorial we have prepared and place it in your hands, and we can discuss it.

The CHAIRMAN: Very good, that will be a convenience to us.

Mr. Ellis then read the memorial as follows :—

TORONTO, NOVEMBER 29TH, 1900.

TO THE ROYAL COMMISSION APPOINTED BY THE ONTARIO LEGISLATURE TO INVESTIGATE THE SUBJECT OF ASSESSMENT FOR THE PROVINCE OF ONTARIO.

Memorandum of the views of Ontario manufacturers presented through the Canadian Manufacturers' Association.

The Canadian Manufacturers' Association includes in its membership leading representative concerns engaged in every line of manufacture and situated in every part of the Province of Ontario and has taken the trouble to ascertain the views of such members upon the important subjects engaging the consideration of your Honourable Body so far as the same specially affect manufacturers.

As was to be expected there is considerable divergence of opinion on some of the points involved. The Association however presents in this memorial only the points on which there is substantial unanimity among its members.

It will be understood that the views presented are not those of men having any favorite theory to advance or advocate but are the views of an Association the prosperity of whose members is dependent on the progress of the Province and whose interests are therefore best served by an equitable and simple system of assessment and taxation.

1. In the first place it is practically the unanimous expression of manufacturers that the present system of assessment of personalty is unfair and unjust and that its enforcement would be destructive to the industries of the Province.

Your Honourable Body has been addressed by so many other interests on this point, that the Association deems it unnecessary to go into the arguments in detail, contenting itself with giving its full endorsement to the views on this subject already presented from other quarters and adding a few considerations growing out of the practical experience of its members.

The theory of the present law apparently is that all capital invested in manufacturing should for municipal purposes be taxed, and taxed not like many other investments on it income or profits but on the principal. This would mean, speaking roughly, that those using their capital in manufacturing must pay a municipal tax equal to two per cent. thereof each year. Manufacturing business in this Province could not possibly bear such a burden and the enforcement of such a law would drive outside the limits of the Province such factories as could be moved and would absolutely extinguish a large proportion of those remaining.

Industrial progress has been possible only by the connivance of municipal officials in the systematic violation of the law. Such a state of things lowers public morality, puts

a premium on dishonesty and favoritism, and clothes municipal officials with a discretion, and imposes on them a responsibilty never intended by the law, and which cannot be justified on any sound principle. This state of things is specially injurious to manufacturing interests because it discourages the investment of capital in such enterprise where the toll to be taken for municipal purposes in effect depends upon the individual opinion —possible upon the caprice—of the person occupying for the time being the position of assessor of the municipality ; and because in most lines the manufacturer has to compete with goods produced outside the Province by concerns who not only contribute practically nothing to municipal taxation in Ontario, but who are for the most part entirely free from any taxation of personalty where the manufacturing is done.

2. Should it be the view of your Honourable Body that municipal requirements in this Province are such as to necessitate additional source of taxation besides real estate, the Association submits that a business tax based upon rental values as determined by assessment is in every way preferable to the existing system. It could not be evaded; admits of no falsification or fraud, and involves no inquisitorial inquiry into the affairs of any business concern.

Such a tax if imposed should in the view of the Association be obligatory on all municipalities so as to secure uniformity.

It has sometimes been urged that such a tax would bear more heavily on the retailer than on the manufacturer or wholesaler. That is a detail which might require consideration on the part of those who frame a new law ; but it is to be observed that the competition of the retailer comes for the most part from retailers in the same municipality and they would at least be on equality as between each other. The competition of the manufacturer on the other hand comes not only from other parts of the Province but from points outside the Province by manufacturers who have no such burden of municipal taxation imposed on them as the law of this Province imposes.

It should also be noted that the retailer for the most part does his business and earns his profits in and from the municipality. The manufacturer on the other hand usually does his business and makes his profits from a larger area and gathers business into the municipality which is benefited thereby in many ways.

3. The only other point with reference to which the Association finds it necessary to address your Honourable Body has relation to municipal exemptions to manufacturing industries. It will be clear on consideration that the repeal of the present onerous law of personalty assessment would tend to greatly minimize the importance of exemptions and bonuses. They owe their existence partly at least to the necessity for the mitigation of the hardship involved in taxing personalty.

Referring however to present conditions, the members of the Association are practically unanimous in urging that the municipalities should retain power to grant exemptions to industrial concerns, but with equal unanimity they object to the provisions of the law requiring the assent of a certain proportion of voters qualified to vote in the municipality, instead of a certain proportion of those actually voting, for the reason that the present statute makes the granting of exemptions feasible in small municipalities while it is practically impossible in larger ones.

The Association strongly urges that the law should be so framed that not only in theory but in practice it shall be equally applicable to all municipalities, thereby securing uniformity.

All of which is respectfully submitted.

On behalf of the Canadian Manufacturers' Association.

P. W. ELLIS,
President.

T. A. RUSSELL,
Secretary.

Mr. ELLIS: Now, Mr. Chairman, there are several other members here who may wish to say something upon any discussion that may arise over this memorial, and we would ask your kind permission to permit our members to address you after some discussion has already taken place, and that may lead to some points that may arise. I would now ask Mr. D. E. Thomson, the solicitor of our Association, to address himself to you.

Mr. D. E. THOMSON, Q.C. : Mr. Chairman and gentlemen of the Commission, as you

will observe from the memorial that has just been read, the Association has not felt that it was called upon to go into a general discussion of the subject of assessment, even on all points that affect manufacturers. What they thought was their duty was to gather the views of their own members, and then to say nothing at all except on those points where such members were practically unanimous. It was felt that they could not be of any assistance to this Commission on the points on which they could not agree themselves, consequently they have only addressed you a memorial on three points: First, the objection to the present law affecting the assessment of personalty; second, their approval, as a substitute if substitute be necessary, of a business tax; and third, an incidental point relating to the matter of municipal exemptions from taxation to industrial concerns. As the memorial says, there has already been so much discussion of the first point that it is not necessary for us to go into detail in dealing with these arguments. Perhaps, however, the injustice of the present law is as well exemplified in the case of manufacturing industries as on any other business of the country. Under the theory of the present law all money, for instance, on deposit is subject to be assessed for the capital if it can be found, and practically it is exempt, and the same law with reference to capital which, instead of being deposited in a bank, is invested in manufacturing business. The theory of the law is that every dollar a man invests in a manufacturing business is to be subject to assessment, not for the profit it makes, but on the principle itself. Now I understand that no one advocates the present law as applicable to moneys on deposit, for the best of reasons. There are, I believe some three hundred millions dollars of money on deposit with our banks alone in Canada at present.

The CHAIRMAN: The Dominion?

Mr. THOMSON: Yes, that is the Dominion. I don't know the proportion that would be fairly applicable to this Province; Mr. Wilkie perhaps knows—roughly speaking I dare say about half of it or nearly so, but it does not matter what the figures are, there must be from 150 to 200 millions altogether of money in this Province that is on deposit between banks and other sources. Now, if the law were enforced, all that money would be assessed and would pay on an average nearly two per cent. on its face. That would mean, speaking roughly again, that two-thirds of the whole income would have to go to municipal taxes. Well, if it were possible to enforce that law, what would take place? That money would leave the Province, most of it in a night, all of it in a few weeks; everybody knows that. It is utterly impossible to enforce that law without driving capital out; because no one would possibly stand and yield up such a proportion of the income from his money on deposit.

The CHAIRMAN: The owner would be liable still, even if he sent his money abroad.

Mr. THOMSON: Perhaps so. The owner might have to move out himself too, if he had no other way of investing his money.

The CHAIRMAN: To some Utopia where there is no assessment or taxation at all.

Mr. JUSTICE MACMAHON: He would be assessable on the income derived from it which reached his hands, no matter where it was.

Mr. THOMSON: Yes, still to be assessed on the income is a small matter; to be assessed on the principal is confiscation as applied to money on deposit. Well now, what I desire to point out is that the same argument as to fairness ought to apply with really some power to money that is invested in industrial pursuits. It goes without saying that manufacturing in this country at any rate cannot stand an imposition of, say two per cent. of the capital per year. I do not know the experience of some members of this Board, but in the case of one of them at any rate, Mr. Wilkie, his own experience will give him a better understanding of that phase of it than all I might possibly address to you, but I have yet to find anyone who is prepared to contend it is possible to enforce this.

The CHAIRMAN: I suppose if everybody paid in proportion to the net balance of his personal property that would pay all the taxes required for every purpose and would be distributed with considerable fairness; we must raise money for municipal purposes.

Mr. THOMSON: Yes, that is true; there is no doubt that you impose taxes in any way, and there is a disposition in business to adjust itself to the way in which you impose it, and the injustice is never quite so great as it seems to be. That may be. You take, for instance, whatever taxes you impose on land and buildings, if you impose equally on all of them and they are treated alike, the thing adjusts itself. But why

does it adjust itself? Because you are treating equally all who are in competition for both land and buildings. Now, the strong point urged by these manufacturers is that you cannot bring about that result. For the most part their competitors are other manufacturers in the Province of Quebec and who do not pay any tax corresponding to this personalty tax; manufacturers in Europe, in England, and elsewhere, who have no such burden to bear; and what I am instructed from every source of manufactures is that an honest, real enforcement of the present law would drive out of the Province every factory that could move, that could take its business say to Quebec.

The CHAIRMAN: The English manufacturer no doubt pays his share of public burdens in some form. It may not be levied in precisely the same way it is levied here, but he has got to pay it all the same.

Mr. THOMSON: Yes, there is no doubt.

The CHAIRMAN: Then why should a person who is taxed here go to England in preference to coming here?

Mr. THOMSON: But the English manufacturer does not pay any tax on the capital he has invested in that business.

The CHAIRMAN: He does pay it in some shape.

Mr. THOMSON: In no shape whatever.

The CHAIRMAN: He pays his share of the public burdens.

Mr. THOMSON: No doubt.

The CHAIRMAN: So your proposition is that he pays it more fairly?

Mr. THOMSON: Yes.

The CHAIRMAN: So it is a question of fairness after all?

Mr. THOMSON: Yes, exactly.

The CHAIRMAN: A question of burden?

Mr. THOMSON: Well, it is a question of burden if you are going to tax him on his capital.

The CHAIRMAN: Taxes in England are higher than ours.

Mr. THOMSON: No, I think not; if you enforce the law against manufacturers, most certainly not, not half so hard. You take the Glasgow system, the figures of which are before you—the system has been exemplified before you now, I understand. Now, the whole revenue for municipal purposes is raised on a rental basis, a certain portion of the actual rental or valuation of the rental premises. Now, I venture to say that a manufacturer——

The CHAIRMAN: If personalty is relieved then it is higher on the rental.

Mr. THOMSON: Yes, and we are quite content to pay; and remember, manufacturers all over, man for man, carry their full share of land and buildings and are quite prepared to pay their full proportion of the burden, if it be one, but what I say is that with the exception of some States of the American Union, from which we borrowed this principle of taxing personalty, I understand that nowhere in the civilized world is capital invested in industry assessed on its principal and made to bear a tax, and the best evidence that the system is unworkable——

The CHAIRMAN: Your position is that they are taxed in the first place the same as other people, and then besides that they are taxed on their capital?

Mr. THOMSON: Yes.

The CHAIRMAN: So, instead of bearing one share of the common burden they bear an additional burden?

Mr. THOMSON: Yes. Of course I might say this, that I think the law being interpreted, if a manufacturer owned his own land and buildings, that they would not be assessed twice, that is to say he would be able to show, as against the capital he had invested, that a certain part of that land and buildings was already assessed, that is the way the law would work out; but except to the extent to which the capital is already assessed by reason of its being in a fixed form, if the law were enforced the manufacturer would have to pay the tax on all the capital he had invested. Now, what I say is that it is easier to find out what a manufacturer has than what money is deposited in the banks. Is it a wise policy—speaking in the broadest sense—to discourage the employment of capital in industrial pursuits? Does not the progress of the Province largely depend on encouraging such investment? But after all, Mr. Chairman, perhaps the worst feature of this system of assessment is that it is not possible to carry it out.

The CHAIRMAN: If it was or could be carried out according to the letter of the law, would it be unjust or unfair?

Mr. THOMSON. Yes, it would be unjust.

The CHAIRMAN: In view of what you have said now, that the manufacturer or the merchant would be entitled to consider his warehouse and the ground on which it stood as a part of the investment of his capital?

Mr. THOMSON: It would still be unjust even if it were workable, not as between one manufacturer and another, because they would be on an equality, but as between all the manufacturers and those who had invested their capital in another way, because for the most part their investments pay taxes only on the income.

The CHAIRMAN: There is a reason for that, because the capital is taxed otherwise.

Mr. THOMSON: Well, I don't know that; I don't know how it is taxed. For instance, a man invests his money in bank stocks, he is assessable on the income, on the dividends.

Mr. JUSTICE MACMAHON: A man invests his money in mortgages.

Mr. THOMSON: He is taxable on the income derived from it; but there is no use blinking the matter, the enforcement of the present law as against manufacturers would simply blot them out for the most part, and that is so well known that it is not enforced. Now, the principal complaint that we have before you, after all, as an Association, is this: That it is in the interests of manufacturers in the long run, even if they pay as much taxes as they are paying to-day, that those taxes should be levied on a stable principle, one that is really enforced, on one where they are not in the hands or the power of particular officials, and where there is a certainty, and not the present uncertainty. What we say is that the law now is so obviously unjust that no municipality in this Province enforces it, and there is a systematic disregard of the terms of the law, because everyone knows it would be destructive to enforce it. Now, I do not need to dwell upon the objectionable features of that state of things. If a law is so unjust that it cannot really be thoroughly enforced, it ought to be repealed; it ought not to be left to the judgment, much less to the caprice, of officials.

The CHAIRMAN: If it is unjust it ought to be repealed, whether it can be enforced or not.

Mr. THOMSON: That is true, but—

The CHAIRMAN: We do not require that additional argument at all.

Mr. THOMSON: No, but, really, Mr. Chairman, I am using that as an additional argument to demonstrate that it is unjust. If a thing is found in practice to be so contrary to the conscience of all parties that there is no attempt to enforce it, that demonstrates its injustice. That is the point I desire to make. The Association presents its case from the broadest standpoint, not from the Toronto standpoint at all, but from the whole Province; and the Association above everything desires to promote a state of the law where the law is definite and certain and where it is the same all over the Province, and where there is no unfairness between the manufacturers or between municipalities in that respect. As it is now, you have a law that one municipality may nearly enforce, another may half enforce, another may pay 25 per cent., another may levy practically nothing. What is going on all over this Province is that assessors and other municipal authorities are exercising their own sweet will about how far they will go in enforcing this law. Take Toronto as an instance—not as being different from others, but just as an instance—what do we find? The City of Toronto secured the services at a large salary of an able man, to do what? Well, I say to promote evasion of this law by private legislation, by accommodating circumstances, by fixing things so that the burden is suited to the back. Now, in the case of an irreproachable man, as the present incumbent is, that would be all very well. But is it a sound principle? We do not know who the next man is to be. Is it the intention of the law that it shall depend upon the shrewdness and ability and farseeing capacity of a man selected for the time being to work out this law? I say that this gentleman, of great ability and experience, earns his salary by mitigating this particular law more than in any other one respect. That is what takes place. We think that those who are expected to invest their capital in a matter of this kind ought not to be expected to do it depending on merely personal considerations, on their confidence in the honesty and intelligence of the man who happens for the time being to occupy that position. We do not know but that by and by another king may arise who knows not Joseph. Now, the Association does not ask that its members be relieved from their due share of the work. I think the prevailing opinion is that as they

carry in the main such a large amount of land and have to erect such extensive buildings, that in the added rate they would pay their full share of the general burdens; but if the Commission should think otherwise, they want above everything else to be reasonable, and what they seek is uniformity and certainty of the law, rather than immediate relief. They are prepared to favour this system of business rental tax, or rental tax on assessed value, which has been discussed before this Board, and which is enforced, for instance, I understand, in the City of Montreal, and which you know all about. They say they favour that for several reasons. In the first place it cannot be evaded; the facts are easily ascertained; it leaves no room for fraud or falsification; it is simple. You cannot possibly overestimate the importance to the community of having a feeling in everybody's mind in reference to this matter of taxes that he is sure of justice. But what is the position to-day? If a manufacturer honestly insists on thrusting before the Assessment Commissioner the actual amount he ought to be assessed for, he knows he is being robbed, because he knows that will not be done by others. If you base the return they have to make on something tangible, that cannot be evaded, you in every way advantage all parties interested. Then it does not require any undue inquiry or exposure of a man's business. Cases have not been rare, as all the members of this Commission know, in which concerns that have been actually insolvent, deplorably insolvent, have been assessed for a large amount of capital and they have not dared to object because they would be blowing on their own credit—concerns that were fighting for their very existence have, in order not to impair their own capital, submitted time and again to an unjust assessment. All experience shows that there is nothing that is more persistently evaded, and nothing that is more obnoxious to men in business, than the system that involves a public enquiry into their affairs and concerns, and if it can be done in any other way that is fair it is surely better; and the Association desires that if that law is passed—there is a permissive provision in the statute now—that it be made uniform and obligatory. The one thought they have tried to keep before them all the time is the securing of uniformity throughout the province. Then the memorial refers to the argument about the retailer. Now, the Association desires it to be understood that it is not opposing any fair contention the retailers may make in this regard. It does not desire to take an antagonistic attitude. There cannot be any inequality there but what can be provided for in framing the law. All that they do is, they point to some considerations which they think would have to be taken into account on the other side, the most important of which is, one that is very vital to them, that while the retailer's competition is with his neighbour, who pays the tax, the manufacturer's competition is with his neighbour in Quebec, who pays probably one-fourth of the tax, and perhaps not more than one-tenth of what the tax would be here if the law was enforced.

The CHAIRMAN: From what is the necessary municipal revenue in the Province of Quebec derived?

Mr. THOMSON: Take the City of Montreal—I believe in some cities the business tax is enforced and in some it is not—it is derived, I understand, from the tax on real estate and buildings, and from what they call the rental tax. I think the rate in Montreal is 7½% on the rental.

The CHAIRMAN: That is found to be sufficient?

Mr. THOMSON: That is found to be sufficient. These are the only sources of revenue.

The CHAIRMAN: Do you know how the rental tax presses upon the householder, whether it is a burdensome tax?

Mr. THOMSON: I am told by Mr. Kemp, who used to live in Montreal, that it is 12½ mills. I hope I have made the point clear that the manufacturers as a body, even if they pay dollar for dollar as much taxes as they do now, would think there was an inestimable advantage in having it under a law that is certain and definite and equal. That is to say, in this city now I understand the assessment of personalty all over is about nine to ten millions.

Mr. FLEMING: Possibly not quite so much.

Mr. THOMSON: What does that mean? That is not the amount of personalty, we all know, nor the tenth part of it, that exists in the City of Toronto. Now, what we say is, even if you take as large a total from us as you do now, take it on a system that is workable, that is definite, and where you are really carrying out the law, and where we know that we are all being treated on the same basis. That is really our argument.

Mr. JUSTICE MACMAHON: Out of the gross amount of taxes, between three and four millions, the amount levied on personalty is only $150,000.

Mr. THOMSON: It comes to this now, that only about one-fifteenth—

The CHAIRMAN: About 8% I think.

Mr. THOMSON: That is, one-twelfth, or less than one-twelfth of the whole, is got from personalty. If the law were enforced, you would get one-third of it, I suppose. Now, it would not matter if every man was paying on, say, one-tenth of his personalty, but the fact is they catch one man for the whole of his personalty, and the other they don't catch. This thing is spotted with inequalities and unfairness throughout.

Mr. MACKAY: Some pay too much and some pay too little, and you can't get it.

Mr. THOMSON: Yes, and we can't get it, and it places a man in the hands of the assessor, a position that the law never intended, that is not right on principle, it casts on him responsibility that he should not bear. Now, the only other matter, and only an incidental point, is the exemption from taxation by vote to manufacturing industries. The association feels, although that matter has not been canvassed by the members, that the bonus and exemption system has largely grown up on account of the necessity of mitigating the burdens that have been cast upon manufacturers through this very thing that we have been objecting to this morning, and they feel that if that were abolished the importance of exemptions and of bonuses would gradually decrease and that probably there would be nothing of the kind except in very exceptional instances; but the manufacturers all over the country, while they are in the present condition at any rate, feel that there ought to be facilities for their exemption. I am not saying anything about bonuses, because we find that opinions differ as to that, but there ought to be facilities at any rate for municipalities granting exemption. There is one point which you must remember, that these are the views of manufacturers all over the length and breadth of Ontario irrespective of where they are. They are almost unanimous. They almost unanimously protest that the present law, while assuming on its face to be the same law all over, is, in effect, not the same. The point is this: The law says that no exemption can be given unless the by-law is voted for by two-thirds of all the ratepayers whose names are on the roll—there are some particular cases in which the amount is three-fifths, but that does not matter. Now, the manufacturers with practical unanimity say "That is all wrong, because it is just the same as if you enacted that small municipalities may grant exemptions, while larger ones may not, for it is practically impossible in any large city or large town or any municipality having a large roll of ratepayers to secure that number of votes to be given both for and against. You cannot get two-thirds of the inhabitants of a large municipality to vote on a by-law at all." Now, what the manufacturers say is, in order that there may not be only seeming, but actual uniformity. "Make the proportion whatever is fair and right—if two-thirds is not right, make it three-fourths—but make it the proportion of those who vote, then it will apply in fact as well as in name to small municipalities as well as large." That is all I have to say. If I have done my duty aright I ought to have conveyed to the Commission this idea above everything else, that the Association has set its face against asking special favours in this matter, and has addressed itself rather to such suggestions as they thought were practicable to secure uniformity and a fair distribution of the burden.

The CHAIRMAN: With regard to the rental tax, what rate would you have them agree upon?

Mr. THOMSON: Well, we did not discuss that with our members and we are really communicating their views. It is a matter of detail.

The CHAIRMAN: Of course it depends upon the locality.

Mr. THOMSON: Yes.

The CHAIRMAN: Upon the amount of money to be provided, and so on.

Mr. THOMSON: Yes, I suppose there would necessarily be in any legislation a maximum beyond which they could not go, and you understand our members are all over the province and their circumstances are different; but what we urge is that if we must pay another tax besides the one on our realty, then we think for every reason that system is preferable. It is not inquisitorial, it cannot be evaded, it discourages instead of encourages fraud or falsification, everybody can be reached.

The CHAIRMAN: In this memorial the manufacturers do not touch the question of local improvements?

Mr. THOMSON : No.

The CHAIRMAN : Have they formed any opinion ?

Mr. THOMSON : Well, we did not think it was a matter that affected us specially differently from other people. Our members have made no protest against the law one way or the other, and we confined ourselves entirely to those points in which we found that our members were practically unanimous—just those three points. I think the fact is that there was nothing sent out to the members on local improvements.

The CHAIRMAN : They have nothing to complain of on that score ?

Mr. THOMSON : There has been no complaint to the Association on that score.

Mr. JUSTICE MACMAHON : Ninety-six per cent of the taxes collected is derived from other sources than personalty.

Mr. THOMSON : I suppose so, taking the Province together.

Mr. JUSTICE MACMAHON : No, but in this city $150,000 is all that is collected on personalty.

Mr. THOMSON : About 92 per cent., I understood.

Mr. MACPHERSON : It shows clearly that they do not reach the personalty.

Mr. JUSTICE MACMAHON : They reach only a very small proportion.

Mr. FLEMING : The general tax would not be over two and one-half millions ; the balance would be local improvements.

Mr. WILKIE : In addition to the unfair distinction between the treatment of one manufacturer in one municipality and the treatment of another in another municipality, there is also the question, I understand, of the competition from outside ?

Mr. THOMSON : Oh, yes.

Mr. WILKIE : You said nothing about that ; in winding up you said you wanted uniformity ; well, you can't have uniformity with outside provinces.

Mr. THOMSON : No, we certainly can't under this law, but what we say is that if it were a reasonable business tax it could not be made onerous at the option of any municipality, and would give us reasonable uniformity say with the manufacturers in Quebec. It is a very real question between the manufacturers in Ontario and the manufacturers of Quebec who do not have personalty tax to pay. In fact I am told by a gentleman who was in New York, where the theory of the law is the same as ours, that notwithstanding the enormous growth of wealth there the amount of personalty reached is lessened year by year.

The CHAIRMAN : We have got all that.

Mr. JUSTICE MACMAHON : Did not the President of the Board of Trade tell us about the difference in values of real estate between Montreal and here ? Is not real estate assessed higher in Montreal ?

Mr. KEMP : I do not know that I want to pose as an authority on that question. Of late years in Montreal owing to the stability of the tax on real estate of 12½ mills—that cannot be raised, under act of the local legislature, for the City of Montreal—during the last eight or nine years there has been an effort to increase the values of real estate assessment so as to accomplish the desired end with reference to raising revenue. However, the difference between Montreal and Toronto, I think it is fair to say, is this—that Montreal is a city of considerably larger population than Toronto, and it is a compact city, it is not spread out so, and it is not so expensive to administer. On the other hand this city is spread out, and we have not the accumulation of wealth and extensive buildings here yet that we hope to have, and we hope by the adjustment of this personalty tax, perhaps, to encourage that and get some of those people who would naturally come here under those circumstances.

The CHAIRMAN : They have got the local improvement system in Montreal ?

Mr. KEMP : No.

Mr. P. W. ELLIS : They have no local improvement system. They derive their entire revenue from rental value and the ordinary tax on real estate.

The CHAIRMAN : And that is limited to 12½ mills ?

Mr. ELLIS : Rental value covers residence property and all—not only business property, but all property.

Mr. GEORGE WELLINGS : I am a small manufacturer, and of course would be in favour of the abolition of the tax on personalty. You know that the statement made by Mr. Caswell yesterday was that Ward Nos. 3 and 4 pay 60 per cent. of the taxes ; but

you will find that the people who earn the money to pay those taxes live in the outlying wards, and while the taxes are incidentally paid as No. 3 Ward taxes, the workers living outside have to pay them. You can quite see that any tax that may be put upon manufacturers will act in this way. Suppose they come in competition with a manufacturer in Quebec, and they have no personalty tax there, it cannot be added to the goods there; and if it is added to the goods here of course the wage earner has got to go down with his wages, otherwise the manufacturer has to take less profit on his goods.

The CHAIRMAN: The manufacturer puts it on his goods, does he?

Mr. WELLINGS: Yes; that is, it is charged to his expense account.

The CHAIRMAN: He is not hurt at all, then?

Mr. WELLINGS: Well, he simply shoulders it on to the other people. The point I wish to make is simply this, that every time you add a tax on a manufacturer or a merchant you simply enable a merchant, if he can, to add the cost; that is, a percentage of profit on the goods, so the wage earner has to pay extra for the goods. Now, if the manufacturer cannot do that on account of competition in another Province, he either has to reduce his profits, go out of business, or reduce his wages—one or the other. So that, looking at it from that standpoint, you see a personalty tax is injurious to the people at large, certainly to the manufacturer and to the wage earner, too. Mr. Fleming said if we abolished the local improvement rate it would cause a general scramble. Now, it is a peculiar thing that Mr. Fleming, the Assessment Commissioner, and Mr. Caswell, from the legal department, should come here and say that the aldermen could and would by combination have the bulk of the money raised in Wards 3 and 4 spent in the outlying district. What struck me was simply this: Why don't the aldermen that represent the outlying wards combine here now to compel our Assessment Commissioner and the City Solicitor to advocate the abolition of the local improvement law so that they could do that?—because if they can combine to get all these improvements in the wards where the taxes are not raised, they could easily combine to instruct the city officials to carry out their views there.

Mr. FLEMING: We did not make that statement that you are basing your argument upon.

Mr. JUSTICE MACMAHON: What Mr. Fleming said was that the number of wards enabled the outlying districts under the ward system to control the City Council and so control the expenditure.

Mr. FLEMING: It was Mr. Caswell said that.

Mr. WELLINGS: The expenditure for local improvements is made by the City Engineer, and therefore the combination of aldermen cannot apply.

Mr. JUSTICE MACMAHON: It is not intended to apply to the local improvements at all.

Mr. WELLINGS: The point I wish to make is this, that Mr. Ellis or Mr. Kemp or any of those manufacturers doing business in the centre of the city and residing in other wards, assuming that they pay the taxes, are debarred from having a portion of that tax spent in the wards in which they live for local improvements; they have got to pay an additional local improvement rate where they live, although they have paid 60 per cent. of the taxes in Wards 3 and 4. I think it would be manifestly unfair to continue the local improvement rate, because I consider that the manufacturers and the industrial people now, people who go into Wards 3 and 4, teeming in from six o'clock in the morning till six or eight o'clock at night, are working, earning, striving, building up the things on purpose to pay that tax; because the man that goes into Eaton's and pays $100, one dollar is a tax which goes into the City Hall when Eaton pays his tax. The man pays the tax, but pays it into Eaton's, and Eaton pays it into the City Hall.

The CHAIRMAN: Is there anyone else who desires to speak on the side of the manufacturers?

Mr. WALTER BEARDMORE: Eleven years ago an incident which bears right on this question was very vividly impressed on my mind. I was one day discussing the question of assessment with Mr. William Alexander, formerly of the firm of Blaikie & Alexander, and he mentioned a case which had just happened. A man whom he had known had died and left, as the only provision for his widow, a $10,000 policy of life insurance. The woman had deposited this money in one of the banks on a special deposit, and at that time was getting four per cent. for it. The assessor came round, and the

woman innocently put in her $10,000 when she was asked what personalty she had. That woman paid that year $200 out of her $400. Now, there we see the effect in one line of the law if it was enforced We may see the justice or injustice of it. A few years ago a prominent man died here—I am not going to mention names—his estate showed something like a million dollars invested in his business, in his personalty, in his merchant business. He had been assessed for $100,000, and had been paying, I suppose, about $1,700 a year. If that law had been enforced the man would have had to pay $17,000 a year. I want to know if that man would have stayed in Toronto and done business? Our firm have our business in Montreal and our business here; our premises are about the same in each place. Gradually the shoe manufacturing business has left Ontario and is now carried on almost exclusively in Quebec—we have a few manufacturers here, but nothing to speak of; the business done here does not amount to anything, and, practically, our business is in Montreal, and we stay here more for personal and family and sentimental reasons than anything else, because it would suit our business better to move our offices; we are practically carrying no stock here. We were assessed here up to a few years ago for a sum which at times was not anything too liberal. Some very smart citizen in the community thought we were rich and were not paying our share of taxes. He appealed against our assessment, to double it or treble it or something of that sort. We came to the Court of Revision and showed that we had practically only our offices here, and they reduced our assessment. I did not want to appeal and make any question, but we were paying then about $700 or $800 a year personalty tax. I was doing in Montreal three or four times the business with the same premises, and my personalty tax was about $150 a year, and here I was paying eight or nine hundred dollars a year and doing not nearly the business. I am not paying as much as that now, because it was reduced.

The CHAIRMAN: The personalty tax you speak of is the rental tax?

Mr. BEARDMORE: The rental tax in Montreal. I am of the impression the rental tax on my warehouse amounts to about fifteen mills, because we improved our place a good deal there about two or three years ago and there was a question about what we should be assessed at, and I was before the Assessment Commissioner and went into the whole question. My impression is that we are paying about fifteen mills, about four mills less than they are here. Now, our merchant business is largely finished in any case, because shoe manufactures to day are buying from the tanners, and the middle man does not come in, and we have increased very much our manufacturing business, and that is the real business we are doing, and that is done in Acton and in Bracebridge. When we were being established in Acton there was a question whether we should not re-establish in Toronto again. I would far rather have put my whole plant here in Toronto, but I knew in the first place I had exemption up there, they offered to give me exemption practically for twenty years, and it decided me at once; and to-day I will go to Montreal or anywhere else rather than I will come here. In our business we cannot turn our capital over more than once a year, and the two per cent. tax on our business would simply be prohibitory, and I would not run the risk of being in the position of having forbearance shown me; in other words, for the City to say, "Well, we won't enforce this thing," and being in the position of having to really evade a tax and escape a tax. Under any circumstances I would not establish in Toronto or in any Ontario city. If you are in a small place and they give you exemption, and if you paid the whole tax of the place it would not amount to very much anyway, so it would make very little difference.

Mr. FLEMING: Do you know how much personalty tax you pay now?

Mr. BEARDMORE: Yes, my personalty tax amounts to about $400 at the present time, and I have nothing here, and in Montreal I am paying $150 and I am doing practically my whole business now there. The $400 would not break us, anyway.

JAMES SHILLING: I am surprised at gentlemen coming here trying to shirk their taxes and trying to shift it on the land owners. I am sorry I was not here yesterday. I would like to have spoken on the local improvement system.

Mr. ELLIS: We know that Mr. MacKelcan takes quite an interest in this matter of personalty tax We would like very much to hear his views.

Mr. MACKELCAN: I quite agree with what has been said with regard to the inequalities of the present assessment law and the importance of administering it fairly, and I

think that a change should be made in such a direction as will make the tax fall more justly upon the classes who are benefited by the expenditures for which those taxes are imposed, and will at the same time enable those who have to deal with the collection of taxes, to do so in a manner which is more to their own satisfaction with regard to the justice and equality of the taxes imposed than under the present system. There seems to be no dispute that the deduction of indebtedness from the value of personal property is an exemption which in its practical effect produces a great deal of injustice and inequality, and all seem to be in favour of abolishing that. That would leave liable to taxation a large amount of personal property that now escapes. It is said that the result would be disastrous to merchants and manufacturers because such a heavy tax would thereby fall upon the goods which they are obliged to carry in the course of the businesses which they carry on. If that would be the effect of the change then I think it should be modified in such a way as not to do any injury to this important branch of business. Personally I have always been in favour of encouraging manufacturers to the utmost extent. I believe I was a strong advocate of the National Policy in this country before either of the political parties would take it up, and I was very glad to see that the Conservative party ultimately took it up, and they have finally converted the Reform party to maintain and continue and support it.

Mr. JUSTICE MACMAHON: If you are not the father of Confederation, you are the father of the National Policy, or the John the Baptist of the National Policy.

Mr. MACKELCAN: I may say, without violating any confidence, that I had a conversation with the late Sir John Macdonald on the subject——

The CHAIRMAN: Let us address ourselves to the subject before us.

Mr. MACKELCAN: I am addressing myself to the observation of Mr. Justice MacMahon just for the moment, to verify what I have said. And so I should be very sorry to see the imposition of any local taxation discourage the development of our manufactures in this Province. But I think a local tax could be imposed in a manner that would be just and fair and at the same time not detrimental to the interests of manufactures. Much as has been the desire to encourage manufacturers, I think we ought not to do so at the expense of other classes of the community who would be made, by our encouragement of manufacturers, to bear an unjust share of the local taxation. Manufacturers may be encouraged without doing injustice, it seems to me, to other inhabitants of the municipality to which their establishment will no doubt be a great advantage and often lead to the increase of population, increased value of property, and the general prosperity of the community; but I think they could do that without shirking altogether their municipal duties or responsibilities. The proposal to impose a business tax in the way of a rental upon the premises used by the manufacturer is satisfactory to some extent, but it does not reach the object that we have in view completely, because some manufacturers may carry a very large amount of goods, which are protected by municipal expenditures throughout the year, and yet have but comparatively inferior premises so far as the buildings and the value of the land that they occupy are concerned. Others might require to have, in the business they carry on, much more extensive premises, while perhaps they were making less annual profit, and they would be paying a very much larger annual municipal tax. It seems to me there are two ingredients in arriving at the amount of taxes to be paid by our manufacturers so as to get as nearly as we can to a just basis for local taxation, and I would suggest that the manufacturer who exports, from the place where he is carrrying on his manufacturing business, the greater part of his product, is bringing into that city or town a large amount of outside money which is being distributed amongst the workmen of the place, and so is doing a greater benefit to it than the man who produces for simply local consumption. The man who is distributing only in the municipality where he is, is deriving a greater benefit from that municipality itself. His customers are there, and while he is benefiting others to a certain extent by carrying on and developing the manufacturing business he is engaged in, he is also receiving large profits from the inhabitants of that municipality. So that the advantages are mutual. They stand upon an equal plane, and he probably ought to pay taxes very much on the same footing as the people who are contributing to his prosperity as much as he is contributing to theirs, and he does not in that way confer the same benefit that a man does who sends his products abroad. Now a manfacturer has in possession on his premises or in the city or town where he is carrying on his business,

only a small proportion of his annual output. As fast as his goods are turned out they are shipped, if he is manufacturing for the outside market, whether it is in the Province or the Northwest Territories. or in a foreign country, and therefore the average amount of goods that he has on hand is smaller than it would be with the man who is manufacturing for purely local consumption. If therefore a tax were placed upon the value or a portion of the value of the average stock kept within the municipality, and they are receiving the benefit of fire and police protection and other benefits that municipal expenditure confer, if a man were taxed on the average value or a portion of the average value of the goods he held in stock in that way, it would seem then to bring about a nearer approach to equality than if he paid only upon the annual rental value of the premises he occupied. It has been said that a tax should be put upon the rental and also one upon the profits. There is a difficulty about taxing profits. In a manufacturing or mercantile business the profits are fluctuating. They depend upon the state of the market, depend even upon the crops of the year, depend also upon the competition and peculiar circumstances, and a variety of factors that are not at all permanent in their character, and the profits of manufacturers are quite different, so far as income is concerned, from the income of a professional man or a man who has fixed assets from which he derives annual interest, and it would not be in the public interest that a manufacturer should be compelled to expose to the public gaze the profits he was making, or whether his business was running behind, or whether he was making great progress. That would unfold to perhaps foreign competitors the weakness of his business, possibly, and lead to an attack possibly upon manufacturers of his class that might be injurious in its consequences to the country. Therefore if we impose any tax upon his personalty I think the manufacturer should not escape the personal tax altogether, it should rather be upon the gross value or proportion of the gross value of the goods that are actually retained on his premises within the municipality, and are receiving the benefits of municipal expenditure there.

The CHAIRMAN : Whether they are paid for or not ?

Mr. MACKELCAN : Whether they are paid for or not. They receive the same benefit whether they belong to the manufacturer or belong to his creditor or to somebody for whom he is agent.

The CHAIRMAN : Does it make any difference where there is a turnover three times a year or four times a year ?

Mr. MACKELCAN : That comes in here, for this reason. Well, it may be that there is justice in that suggestion. A man might have an average stock, say of $20, 000 which he may turn over five times in the year. Another may carry a stock of $20,000 which he turns over only once or twice a year ; but as a general thing the man turns over the stock so many times in a year does so at a smaller percentage of profit than a man who turns it over once oa twice. Take a jeweler, who turns over his stock once or twice a year, but he will make five times the percentages of profit on that stock.

The CHAIRMAN : Then you would disregard the turnover altogether ?

Mr. MACKELCAN : I would disregard the turnover, because all I am looking to is the average amount of goods that are there receiving the benefit of fire and police protection just as you do in the case of buildings.

Mr. WILKIE : You said the gross value a few minutes ago ; you mean the average value ?

Mr. MACKELCAN : Well, what I meant to say was this, it is the gross value of what is there there for time being.

Mr. WILKIE : That is not the average.

Mr. MACKELCAN : Oh, yes.

The CHAIRMAN : It might be very different from the average.

Mr. MACKELCAN : I do not wish myself to be understood with regard to that. What I say is, a man may have an average of $20,000 of goods in his establishment all the year round, turning them over and over and over, but always replenishing his stock.

Mr. JUSTICE MACMAHON : Why deal with the man's stock at all ? If you are going to tax him why not tax his gross income ? You see under the present system one man escapes, perhaps carrying three-fourths or four-fifths of his stock.

Mr. MACKELCAN ; I don't know that there is such a thing as gross income. There may be gross receipts, but if income is to be regarded as defined—

Mr. JUSTICE MACMAHON : Yes, income means the gross income derivable from the business after paying out all the liability in respect of its conduct, but not his own personal expenditure.

Mr. MACKELCAN : That would be his net income, I take it.

Mr. JUSTICE MACMAHON : I am speaking of the income from his business after paying all services and expenses connected with his business.

Mr. MACKELCAN : There is what I would desire to enquire into, for this reason : That means the annual profit he makes. It is not his gross receipts.

Mr. JUSTICE MACMAHON : I am not speaking of gross receipts ; I spoke of the income derived from his business.

Mr. MACKELCAN : That is, his annual profit, in other words ?

Mr. JUSTICE MACMAHON : You may call it by that name.

Mr. MACKELCAN : I was just saying now that that would be a very delicate inquiry, one I think that should be avoided if possible. We do not wish to know just what these different classes of manufacturers may be making. It may be that one may be more generous to his employes—consequently he may reduce his own profits by so doing. Another may be very "near," and so have a margin of profits Another may have heavy losses and so reduce his profits, or he may be exceptionally fortunate in making sales ; but what I want to do is, if possible, to grade the amount which the manufacturer is to pay the municipality according to the amount of goods, or the average amount of goods, that he has in that municipality deriving protection from municipal expenditures during the year. My idea is that that should be liable to some taxation in proportion to the amount that is there. Whether that tax should be upon its entire value, or upon a percentage of its value, I leave entirely for the Commission to decide. It was suggested by Mr. Blain that there should be, in addition to the business tax, a tax upon the annual profits or income.

Mr. MACPHERSON : I don't think Mr. Blain is anxious for that.

Mr. MACKELCAN : He suggested that, and Mr. Paul Campbell suggested the same thing, and others suggested that there should be both the tax upon the rental and the tax upon the income. I say that the tax upon the rental would not fall with equality, because one class of manufacturers may have a very large amount of goods and may be doing a very large amount of business and may have very inexpensive buildings.

The CHAIRMAN : That is down already

Mr. MACKELCAN : That is the reason why I think that is not sufficient of itself as a basis, and I have suggested the other basis, not of the profits, but the average value of the goods that a man carries during the year. Now, that is very easy to be ascertained by business men themselves, for this reason : Every business man carries a certain amount of fire insurance. He knows what his average stock is that he carries, and he keeps that insurance up to that every day during all that year. At certain seasons of the year, when he has a larger amount of stock on hand temporarily, he may take out a short-date policy to cover that for the time that stock remains in his shop. The same with the manufacturer. Now, if these amounts can be so readily ascertained by a merchant or manufacturer that they can adjust their line of insurance accordingly, that could be ascertained equally well for the purpose of an assessment. I don't think there is any particular difficulty at all, and there is nothing inquisitorial in the effort to ascertain the gross value of the stock that is on hand at any one time during the year in the establishment of any merchant or manufacturer. This principle of the difference between the benefit conferred by a manufacturer who exports his products and one who manufactures entirely for home consumption I endeavoured to carry out in preparing a general by-law for the exemption of manufacturers, that it shall be based, so far as the exemption of the different classes of manufacturers, upon a percentage of their products that they exported from the municipality, so that those who brought profit to the municipality, brought money into the municipality, should enjoy greater privileges in the way of taxation than those who manufactured entirely for consumption within the city.

Mr. WILKIE : That would drive manufacturers out of the large cities into the smaller municipalities.

Mr. MACKELCAN : No, no, it would encourage those who manufacture in the city, because they were manufacturing for local consumption, for the local trade, to remain there, and those who were manufacturing for export would remain there because they were getting a larger percentage of exemption.

Mr. WILKIE: But the manufacturer who was disposing of his goods in his own municipality would make money by moving out of it across the line and selling his goods in that same municipality.

Mr. MACKELCAN: No, he would find the collateral advantages of staying there to be such that it was better for him to stay where his customers were.

Mr. WILKIE: Large cities would suffer in favour of the country towns

Mr. MACKELCAN: What I say is this: Some principle might be applied in municipal taxation in this way, that if you tax just simply an average of what a man has on hand in a municipality the man who is manufacturing for export has very little there because his goods are shipped as soon as they are ready for his customers, they are not retained there, and he has comparatively a small stock that would be liable for local taxation. We simply tax the gross value of the average stock that he has on hand or a percentage of the gross value.

Mr. BUTLER: Would you get at that average by asking him, or how would the assessor get at that?

Mr. MACKELCAN: You could very easily ask him, "What is your line of insurance?" I think from any honest manufacturer you could get that. It would not effect his credit, his standing. He would not disclose whether he was carrying on his business at a profit or a loss, but all information that would not be injurious to him I think he would be quite ready to give up. At any rate he should be made to give up that information, and it could be verified very easily by a production of his books before the Court of Revision if there were any dispute as to the amount of his assessment.

Mr. ELLIS: You don't want to expose him?

Mr. MACKELCAN: You don't expose him by ascertaining what amount of stock he has, because that has nothing to do with whether he is making a profit or a loss or as to what the general volume of his business is, and I quite agree with the suggestion that was made by Mr. Fleming yesterday that even in a case of that kind where there is a dispute with regard to the personal property with the city, the Court of Revision might very well not be open to the public but only to the parties interested if a business man or anyone else did not desire to have the newspapers promulgating through the Province the condition of his private affairs.

Mr. JUSTICE MACMAHON: There would be an examination *in camera?*

Mr. MACKELCAN: Yes, I think it would be fair enough. Of course the results would be public, what the man was assessed for would be public, but the disclosure of his private affairs might be avoided. That is a thing that I know the officers connected with the assessment department always feel great delicacy about.

Mr. WILKIE: A star chamber?

Mr. MACKELCAN: I would not call it a star chamber. The results would be public and the inquiry would take place before responsible officials and no unfairness could be suspected, but as there is great complaint in regard to the exposure of private affairs in an investigation of this kind it might be proper enough that it should not be so open to publication. However, that is only a collateral matter. I mentioned it inasmuch as I heard that Mr. Fleming had suggested it yesterday, but I think there would be no practical difficulty in taking a valuation of the character I speak of, and that there should be a taxation of that kind either upon the whole or a percentage of the stock carried that way during the year in addition to the business tax or tax upon rental in lieu of the tax upon income, which might be too inquisitorial and of too fluctuating a character.

Mr. FLEMING: Would you allow me to ask Mr. MacKelcan a question? Why might it not work to the disadvantage of a manufacturer here as compared with a man doing business in Montreal or in the old country or some other place if you were to assess, as you suggest, upon the average gross value of a man's stock? I assume that what the Commission desires to get at is to place the manufacturers here in as good a position to do business as in any other part of the Dominion.

Mr. MACKELCAN: I think this, that a man receiving municipal benefits should be willing to contribute towards them, and what we are endeavouring to get at is what would be a fair and reasonable basis I am just saying that I do not think the rental basis would be an equal distribution of the burden of taxation amongst the whole of the members of that class, and as compared with the other members of it I think that the distribution would be more equal if there were another element added such as I speak of,

which could be based upon the average value of the goods, though not necessarily extending to the whole of that value, say, possibly 25 per cent. of it, or some percentage which might be thought to be reasonable and fair; and then as between them and the other classes of the community who do pay taxes on their personalty, the contrast would not be so glaring as it otherwise would be if single classes were specially exempt from all taxation on personalty while other classes in the community have to pay taxes on their personal property.

Mr. A. E. KEMP, M.P.: Mr. Chairman, I feel that the Memorial which the Association has handed in fully represents the views of the manufacturers of this Province, and I am only here this morning as a humble member of the Manufacturers' Association to endorse those views, knowing the manufacturers of the Province and knowing from whom the replies came and having the honour of being at one time President of the Association. It is a mistake for anyone to suppose that manufacturers are appearing before this Commission with the idea of evading responsibility. A statement was made expressing surprise that the responsibilities were being evaded and put upon the shoulders of another. That is one argument that has been used against the arguments that have been put forth but it is not tenable; that is not what the manufacturers are trying to do; and in any case, how is the line defined between a rich man and a poor man? A man may have a very prosperous personal appearance and be very poor and have an over-drawn account in the bank. There is no way by law to define what constitutes a rich man except by the application of the Ontario Assessment Act; that is the only way you can find out who are rich and who are poor in this community, so that the public can tell. Now the manufacturers are here for the purpose of urging upon the Commission the necessity of equalizing the assessment, equalizing the law. They are not here to avoid taxation. They are here saying that they have to compete with other places, and that they want to be put in as favourable a position as manufacturers in other places are put in. They don't like the system of exemptions altogether. In one municipality in this Province you get a few men who get up—

The CHAIRMAN: Supposing the assessment was perfectly equal and just in this municipality but yet a manufacturer here was at a disadvantage with a manufacturer in another Province, what would you say? He would have to bear that, wouldn't he?

Mr. KEMP: I would say that in the interests of the Province, in order to induce the investment of capital in industry, that the government or the municipalities should see to it that that kind of thing did not exist, because that would necessitate the removal of capital from this Province.

The CHAIRMAN: That would not be for the Government to do; it would be for the municipality.

Mr. KEMP: I think it would be for the Provincial Government. I think what we are striving for is to get a uniform law throughout all Ontario and not let one municipality feel that they can get up and bid for an industry there and take it from another place, and one class of men say, "We are a little smarter than men in that other town, and we will get this industry over here,"—and that kind of thing goes on, and then people get up and protest against the equalization of the law just because they cannot gain an advantage for their own place. That is a thing that ought to be done away with as much possible. I thought perhaps that Mr. MacKelcan would be the only one that would oppose the views of the manufacturers to-day. I am glad to see his attitude is changed, for he seems to realize that those who carry on business for export—by which I suppose he means export outside of the city to other Provinces—and the man who carries on business here, should be recognized as benefiting the community. The manufacturers don't ask any favours of that kind that he outlined; they are willing to pay their fair share of taxation. Then he speaks of the benefits manufacturers receive, and he refers to the police protection and fire protection, and that is a fair issue; but what is police protection? What is fire protection? Let that be determined, and let the city charge the manufacturers with whatever police protection and fire protection they give. The manufacturer in this city has his own night watchman, he is not subject to the police protection of the city. The police preserve general order throughout the city, but all the manufacturers of any importance through the city have one or more watchmen of their own, they have their own fire protective system, and at the same time I submit they ought to pay their fair share, but that fair share does not constitute 2 per cent. on the

capital they have invested in these ways. It seems to me it has been pretty well proven that you cannot successfully carry out the law ; it throws too much responsibility on the officials who are charged with it ; and I want to emphasize what has been already stated here on previous occasions of the justice and the fairness of the officers of this city in whose hands this law is entrusted at the present time. At the same time, I think in view of future generations that it would be well not only for Toronto but for all the municipalities to have this law changed. Reference has been made to Mr. Blain's views as expressed before this Commission. I spoke to Mr. Blain when he went away, and he said what he had in his mind was to adopt a rental value on those classes of merchants who carried a stock, and the manufacturers, and the income tax that he referred to he thought ought to be applied to those who carried no stock, agents, for instance. Now, this city is becoming a city to a considerable extent of agents. We have men occupying offices here who carry no stock and who represent business in Montreal or in Europe or perhaps the United States. I say that that plan is feasible. That is what Mr. Blain had reference to. We have this morning the example of our friend, Mr. Beardmore. I am justified in saying that it was only the fear of the application of the Ontario Assessment Act that caused Mr. Beardmore to remove his business from Toronto and organize it and increase it and develop it in other places ; and if it had not been for the effect that he feared that law would have on his business in future we would have had an industry here to-day employing no less than 250 hands. In adopting the rental tax in place of personalty as at present, when the rental tax would be distributed and when it was adjusted over the whole community, it was thought by some that it might not cover the revenue that comes from the personalty as at present. That would be hard to say unless you absolutely made out tables and brought figures to bear. It might not be the case, and it might. Whatever little there would be left over would be infinitesimal, and it would not affect the taxes to any appreciable extent. At the same time you will bear in mind that the manufacturers would bear part of whatever goes from real estate owners, for they are not only real estate owners of factories, but they are real estate owners in other senses, having residence property in the city or town where their factories are established. I feel very keenly on the point that we want this community here, speaking for Toronto and this Province, to be a place where capital will be free to be invested in industry, and we don't want this law to operate like a pestilence on the community so far as the investment of capital is concerned. This law as it stands to-day is a blot upon the commercial interests of Toronto. I take that ground, and I take that stand advisedly, and of course if it applies to Toronto it applies to other places in the Province.

Mr. WILKIE : When you say Toronto, I suppose you mean you are here as a Manufacturers' Association of the Province—you mean of all manufacturing centres ?

Mr. KEMP : Yes ; I refer to other places as well ; the argument covers all other places. We don't want any advantages for Toronto—a uniform law throughout.

Mr. P. W. ELLIS : The matter has been gone over very fully, and very little remains for me to say, and Mr. Thomson will wind up anything that we may have to say upon this. One or two remarks passed here to which I would like to refer. One was from yourself, Mr. Chairman, wherein you state that if the tax becomes a rental tax instead of a tax on personalty, the rental tax will naturally be higher in order to bring the same revenue. I take it that if in your judgment you would advise the rental tax based upon the assessed values, that it would be fixed at a fixed amount, the same as it is in Montreal

The CHAIRMAN : That is, there would be a maximum ?

Mr. ELLIS : A maximum allowance, yes.

The CHAIRMAN : Not that we would attempt to strike any rate ?

Mr. ELLIS : No. I had a visit this morning from a prominent Montreal manufacturer who happened to come in the office just before I came here, and I asked him as to the character of taxation he was subject to in Montreal. He said, " We have the rental tax, that is the only business tax that we pay in the municipality of Montreal." They have another tax which they pay to the Provincial Government. Then I enquired if they had the same real estate tax that we have here, that is, if property and improvements upon the same are taxed. He said, " Yes." Then I inquired further, " In taxing your business premises do they then go to your home and tax that also on rental values ?" He said, " Yes." Mr. Kemp says this is not correct. I don't know whether it has been

altered since Mr. Kemp lived in Montreal or not. Of course that your Commission can find out.

The CHAIRMAN: Some one else said to-day that it extended to all dwelling houses in Montreal.

Mr. ELLIS: Then I inquired from him if that was the entire revenue for municipal purposes in Montreal. He said, yes. I asked him, "Do you have the local improvement plan there?" He said, no: "Then how are all public works such as roadways, sewers, etc., carried on?" He said, "From the revenue derived from the tax on real estate and rental value." I inquired then if that supplied what was requisite, and he said, "yes." Touching the discussion that arose as to the onerous taxes here compared to Quebec, I believe I am quite correct in stating that many of our manufacturers have been approached from the Province of Quebec to remove there. It has been pictured to us the ower rate of wages obtaining, and other advantages, if we would go there; and naturally, if the class of taxation under which we exist should be more onerous in this Province than there, it certainly would have the effect of driving some out and perhaps preventing others from coming into our Province. I notice that Mr. MacKelcan seems very loth to leave the principle of taxing the values of personalty on the manufacturer. He seems to have overlooked the fact that we are not escaping. We are going to pay, I take it, if you should so advise, a rental tax. Mr. MacKelcan's remarks impressed me with the fact that we were going to pay no more tax than simply the real estate taxes on the premises we occupy, but he overlooked the fact that we are going to pay a rental tax. Now he goes further and says that one class of a community should not be encouraged at the expense of another. A few years ago the Toronto Board of Trade made an investigation covering quite a section of the business district of Toronto to see what the effect of this system of taxation would be. Supposing that a business district were assessed upon landlords' values, how the revenue of the city would compare with the revenue they were already deriving upon the taxes from personalty,—and I believe the result of that investigation was that the city would derive a larger tax.

The CHAIRMAN: That is an exceedingly important statement.

Mr. ELLIS: I believe that is in print and the representations can be obtained and placed before you. During the meeting of the Toronto manufacturers and discussing the question on the rental value tax rather than personalty, manufacturer after manufacturer arose and stated that under that system they would pay a greater tax than they are paying now, and that was quite significant. Mr. MacKelcan has also another idea; it is that the manufacturer does not carry stock. Now formerly that view would obtain, when manufacturer's were not distributors, where the product of their factories went direct to the middleman or distributor; but that is not general in Canada. A large number of our manufacturers not only produce but they also distribute, and they require to anticipate the wants of their customers, and do carry stock. It might be well to notice that the manufacturer is in some respects in a very different position from most other business interests. To begin with, we make a very large investment in plant, in machinery, and this machinery is valuable only so long as it is in operation. If that same investment were made in merchandise by a merchant he would add a profit, it would be sold, both principle and profit would return to him to be reissued. With a manufacturer he has made an investment which is only valuable so long as he is employing labour and using raw material and distributing. I will give you an illustration that came to my notice a few years ago—I admit it was an extreme one—where a manufacturer's assets were being sold out. His stock realized 75 cents on the dollar; his machinery realized only 7½ cents. I understand in Toronto machinery is exempt except for school tax, but speaking on the broad principle I would say that a manufacturer requires a great deal of faith, a great deal of courage, a great deal of force, to invest his money in a class of asset that unless every condition is favourable he may soon find his capital vanish before some new invention We are competing under unequal conditions with other classes in the community. It matters not a whit to importers what the tax is provided all importers are doing the same; it matters not a whit to retailers what tax they pay provided all other retailers are taxed; but when it was stated that manufacturers manufacture for their own locality, that is a very exceptional instance. I may say that in the large list of members of our Association you can hardly find ten who simply manufacture for their own locality. They are all manufacturing for the Dominion of Canada and some of them

are exporting goods out of Canada. In discussing the matter also in regard to placing the manufacturers—and here I include also wholesalers—in a more favourable position than the retailers in the city, a very prominent retailer in Toronto, one who takes the most advanced position among retailers in the matter of taxation, stated that he realized the fact that the wholesalers and manufacturers of Toronto were competing not with the conditions that surround them here but with the conditions which prevail in other localities, and that they desire Toronto to be a large manufacturing and commercial centre, and rather than that anything should transpire that would paralyze or discourage that very large feature of Toronto's prosperity he would go so far—and that was a very important matter for this particular gentleman to say—as to exempt them entirely from taxation, plant, real estate, and everything else, because he said, "Toronto simply could not exist unless it were for the heavy pay rolls of the manufacturers, the large number of persons they bring into the city, and the activity which they are giving to the Province and the city." A customer of ours some years ago started in business in Toronto, and very unwisely, it appeared to us, selected a store on the south side of Queen street, among a number of stores, half of which at that time were empty, and those which were occupied were rented at a very indifferent or no rental. By his enterprise, brushing up his window, displaying in his window, good illumination at night, he actually by his own force of character and his own enthusiasm and enterprise turned the travel from the north side of Queen street to the south to pass that particular row, and it was not very long until every store was occupied by good live business men paying good rentals to the owners of the property. Now, those owners could not complain if they might have to pay a little more taxes on account of that; and that instance might be multiplied in hundreds of cases. You gentlemen of the Commission see yourselves that the enterprise of individuals, their unique methods of conducting their business, their manner of attracting attention and making themselves and their businesses popular, etc., very quickly take a dead section of the city and revive it and give it value, and those who were formerly in the position of having depressed surroundings and find it revived and enhanced in value will not complain if they have to pay a little more tax.

Mr D. E. Thomson, Q.C.: Mr. Chairman, I would like to reply to just a few points, that Mr. MacKelcan has referred to. It is very satisfactory to learn that the representative of the municipalities here practically agrees with the stand we have taken that the present law is wrong, and that is entirely important that a substitute must be found, and takes no issue with us in any matter except the substitute that is proposed. Of course we must all admit that human laws are not perfect, and we cannot work out perfect justice applicable to all cases. All that I want to say is that the alternative which Mr. MacKelcan proposes is not satisfactory, is not as suitable as the one we have suggested. In the first place he says that you have got to do away with the exemption of indebtedness. Unless you can do a good deal more than that, that would but increase our taxes, because then we would be taxed on our capital plus our indebtness, because indebtedness is taken off now only to find out what our capital is. Now he proposes instead that you either tax the manufacturer on the whole or on some proportion of the average stock which he carries. That, I understand, is the proposal, Now that is not as good as the business rental tax, because it is not so simple, it is not so easily ascertained, you are not so sure of uniformity—that is clear enough—it is to some extent inquisitorial, and it is easy to evade it. Mr. MacKelcan appears to think that if a man produces his insurance policies you could tell. Well, suppose the stock he carried was pig iron, he would not have insured it. It might be asbestos or bar iron.

Mr. MacKelcan: Find out some other way.

Mr. Thomson: I point this out, that the inevitable consequence of the system which Mr. MacKelcan proposes would be to have storehouses outside the municipality to carry your stock except in a few cases where you could not provide adequate insurance; that is what it would amount to. It would be the easiest thing in the world to evade it. Then let us see how it works. Mr. MacKelcan says he would have regard to the number of times a man turned over his stock; and he says if he turned it over fewer times he would have to have a larger profit. Let us see how that would figure out. Suppose one man carries $20,000 of stock which he turns over five times a year; that is $100,000 of a turn-over. Another man carries $100,000 of stock which he turns over on a average once a year; he would have to have five times the profit of course; but what I point

out is that Mr. MacKelcan's principle would take five times out of him for taxes. Figure it out Suppose they were both working on borrowed capital, and one had an average of $20,000 which he turned over five times a year, upon which he was fortunate enough to make 3 per cent. on his turn-over, I think, taking the money he borrowed, that would be $3000. Mr. MacKelcan's scheme would take $400 out of his $3000. But that man makes the same turn-over and charges five times the rate of profit and gets the same result, Mr. MacKelcan's scheme would take $2000 out of that man's $3000 for taxes. Is that what is a workable alternative? In a great many cases the effect would be what I have suggested, that people would simply store their stuff outside. Another suggestion is the matter of private inquiry. Well, I appeal to you, gentlemen, if there is any possible way in which you are going to make the whole public absolutely acquainted with what is going on, it is by having an inquiry with closed doors. You cannot shut out those newspaper reporters and those whom they represent in any such fashion. You cannot advertise a thing in any way so completely as by having closed doors and shutting the people outside; and you cannot inspire a suspicion of unfairness of your investigation better than by having closed doors What is it that gives the public confidence in the administration of justice? It is by allowing the public. It has come to such a state now that if you attempt to shut out the public you insure the greatest possible publicity for what you are trying to shut up

Mr. JUSTICE MACMAHON: I suppose the proceedings in the divorce courts show publicity, although they are taken in camera. You cannot keep the ubiquitous reporter away no matter what you do.

Mr. THOMSON: Even Eve, it was largely because she was refused that she took the fruit. So it is with prohibitions all along. Now, I don't say that the matter of a rental business tax would work absolute fairness in every case, but I do say that for the manufacturers—who have come here with a desire to do the fair and right thing—there has been nowhere devised a better or more workable scheme, and it is impossible to over-estimate the value to the public of having your system of taxation of such a nature that nobody can evade it. If you once inspire in the minds of everybody in the public that they are being treated all alike, that you seek a uniform administration of the law, you get a system where things find their own level and the burden adjusts itself.

Mr. JUSTICE MACKELCAN: The City Commissioner here admits that there is the greatest difficulty in carrying out the law, that in many cases it must prove very unequal, and in a good many cases very unjust.

Mr. THOMSON: And it is important to bear in mind what has been mentioned once or twice to-day, and what Mr. MacKelcan realizes the importance of, that the manufacturer's competition is not in the main with those who have to submit to the same burden, but with those outside who have not to contend with it; and unless the population of Ontario is to make themselves an agricultural Province merely and to drive manufacturers out of it, manufacturers must receive the same liberal treatment here that they do outside the borders of the Province. The direct and inevitable consequences of another policy will be to drive manufacturers out of this Province, which would be a very serious loss to the community in every form. All that we ask is that above everything the law be made simply, definite, workable, and one that strikes everbody alike. We are willing to bear our fair share of the burden whatever it is.

Mr. FLEMING: The statement made by Mr. Ellis to the effect that the business men would pay more taxes under the Montreal system than under the present system——

Mr. ELLIS: I said the investigation was made comparing the rental values of a certain district as compared with the personalty tax.

Mr. FLEMING: All I desire to say is that that is not in accord with the information that we have in the office. I am at present getting out a statement of blocks of land, say Front St. from Church St. to York St. taking King St. and a number of wholesale districts, and I am taking also a number of districts where the small storekeepers are and I will submit that to the Commission in the course of a few days. I think you will find by that that the taxes paid by the more wealthy district will be a great deal less under the proposed system than under the present system. I am not arguing against the change on that account; I merely desire to make that statement so that you will have the facts before you. So far as I am personally concerned I think that the manufacturers especially and the wholesale merchants should be placed in as good a position to do business in

this Province as any other manufacturer or any other merchant in any other part of the Dominion That is my view, very, very strong, and so far as Toronto is concerned I try to carry that out. Now in reference to the question of exemptions, that is the vote upon that by law to give a manufacturer consideration, I think it is wholly wrong. I am satisfied it was conceived against the larger municipalities in favour of the smaller ones. It is not a benefit to the Province. I can see no reason in the world if a manufacturer asks for an exemption that may amount to possibly $500 a year,—in no case that I know of would it amount to $1000 a year perhaps $200 would be the outside,—why that question has to be submitted to the ratepayers at a cost possibly of a couple of thousand dollars—a cost possibly as much as the manufacturer would receive during the ten years—when the Municipal Council have power to go in and tax people for any sum that they like and spend the money practically in any way they like. I think that that question should be left entirely in the control of the Council, that is so far as the granting of exemption is concerned. Now if it comes to giving a bonus in the shape of a large sum of money, or giving away a large part of the public domain, or something of that kind, it might be necessary to have a proposition made with the approval to a certain extent of the ratepayers, but upon general principles the law as it now stands is I think wrong in principle, it is against the municipality, and I am satisfied it is against the Province, and for that reason I would like very much to see a change ; but I think the municipality should have the power if it desires to give exemption to a manufacturer that would be within reason. I would not say that the city of Toronto should have power to induce some manufacturer to come here from Hamilton and give him an exemption to induce him to come here, but there are cases where men are coming from the United States to settle in Montreal or in the Province of Quebec, and at the present time the city of Toronto has no opportunity of holding out an inducement to these men to come and locate in this Province, and the result is that some of them go to other places. I think the Council should have absolute control in reference to that.

Mr. ELLIS : If the rental tax were distributed all over Toronto the result would be very different to what Mr. Fleming anticipates his figures will show. Now, the assessor comes to a wholesaler or manufacturer and enquires from him whom he has in his employ ; there is John Jones and Henry Smith, etc. Let us take an illustration. John Jones receives a salary of $1,500 a year. The assessor then assesses him on the amount over and above the exemption. Now, give the rental tax as it applies in Montreal, John Jones would not be inquired for from me, they would simply go to his home, and instead of paying his tax as he pays now upon his income, he would then pay it in the form of rental value on his home.

The CHAIRMAN : That is if he was a householder.

Mr. ELLIS : If he was a householder.

The CHAIRMAN : If he was boarding ?

Mr. ELLIS : If he was boarding then he would pay, of course, through the rental.

The CHAIRMAN : He would be exempt, except so far as he paid taxes in paying his board ?

Mr. ELLIS : Yes. I think Mr. Fleming will bear me out in saying that in Toronto there are many persons employed who are moving to and fro, and who sometimes have short time and overtime, and it is absolutely impossible to show what the income of his employee is, and on the other hand, from householders, we would have a fair return. I know that that would not be a popular theory to advance on the part of Mr. Fleming or other persons who are largely the result of the popular will, because it would bring under taxation a very large number in the city at present who are paying taxes possibly through their rental to the landlord ; yet the law of supply and demand in Toronto for the last three or four years has been such that the landlord has been practically paying all the taxes, because he could not get proper rental from his property. That has been only an exception, but it seems to me, speaking as a citizen of Toronto, that the rental value would be a very proper manner of receiving it.

The CHAIRMAN : If spread over the whole city ?

Mr. ELLIS : Yes.

Mr. WILKIE : It is not spread over the whole city in Montreal. I have the by-law here, unless they have changed it.

Mr. MACKELCAN : The Montreal by-law imposes an assessment of one per cent. per

annum on all taxable immovables, and then an annual tax is imposed in addition upon the trade of the manufacturers, financial and other institutions, premises occupied as warehouses or storehouses.

The CHAIRMAN : What is the date of that ?

Mr. MACKELCAN : This is the by-law of Montreal that was brought here the other day, passed 8th May, 1899, which is the basis of the present taxation in Montreal.

Mr. WILKIE : You might go on to say, Mr. MacKelcan, that the assessment of real estate in Montreal for municipal purposes is one and one-fifth per cent., and realized in 1891, $1,027,000 ; the business duty and personal tax realized $188,000, or 15 per cent. of the total amount in Montreal, so that the amount realized in Montreal is apparently greater under their present system of personal property than under our system

Mr. JUSTICE MACMAHON : It is more than twice as much.

Mr. WILKIE : Well, there are certain special taxes there on insurance companies, I suppose you would have to allow something for that, but it would be a very moderate amount

Mr. MACKELCAN : It has been said here about the disproportion between the taxes of Montreal and those of Toronto It seems to be lost sight of that about one third of the taxes imposed here are practically beyond the control of the municipality, that is the Provincial tax, as it may be called, for education. Here it seems to me that is carried to excess. From the age of five to the age of twenty-one, we will say, practically the city provides, in the first place, a nursery for children from five to seven, and though you would imagine seven years would be the average time the young man could afford to spend in school, nevertheless, under our system of education, they can get free tuition up to perhaps twenty-one or twenty-two years of age, and are able to spend up to fifteen or sixteen years in the public schools, being educated at the expense of the general ratepayer. It seems to me that if we cut that down to a reasonable limit so that a substantial elementary education could be given to everyone at public expense, and beyond that paid for by each one, these questions of assessment would not trouble us so much, because the taxation would be lighter and there would not be the invidous comparisons between Montreal and the cities of Ontario simply because of the heavy burden we have to bear under that system of education. By cutting it off at the beginning and end, raising the age from five to seven and lopping off all the extra expenses that now come on the general ratepayer, we could do away with that largely.

The Commission adjourned at one o'clock *sine die*.

Subsequently the following dates for further public sittings were fixed, and notice thereof advertised :

Tuesday, 11th December, and Wednesday, 12th December, 1900—For hearing the views of companies operating franchises, represented by Mr. Robinson, Q.C., and others.

Thursday, December 13th—Additional day for specially hearing the views of rural municipalities, more especially townships and counties.

Friday, 14th December—For hearing the views of insurance companies.

SIXTEENTH DAY—TUESDAY, 11TH DECEMBER, 1900.

Commission resumed at 10.30 a.m.—Present, all the Commissioners.

The CHAIRMAN. This day is appointed to hear from the Companies represented by Mr. Kingsmill and Mr. Robinson. We shall be very glad to hear from you now.

Mr. CHRISTOPHER ROBINSON, Q.C : You will recollect that when we adjourned, when I was last here, it was with a view of our endeavouring to obtain such information by consultation and conference with a number of companies that we were here representing to see whether we could agree upon anything like a proposition which recommended itself to us and might recommend itself to the Commission as a fair basis of taxation for such Companies. I indicated then to the Commission the difficulties that I foresaw in endeavouring with a number of companies situated in the different parts of the

Province to get the information or to get the prolonged conference that would be necessary to arrive at any satisfactory conclusion, because I do not think there can be a subject of greater importance to these companies than to settle the basis of taxation that we must hope will be for, at all events, a very long time to come in order to reconcile itself to the demands of the taxing power and with their own interests in the conduct of their business. We have done everything we could in that interval; we have communicated with all the companies: we have got information from some, we have got an agreement to a certain extent from a good many; and we thought it was far better to come here and tell the Commission what we could than simply to say to them that we have not been able to get all the information, have not been able to get all the assistance we should have if we had had a much longer time to carry on these communications and conferences. What I propose to do now is just to explain to the Commission how far we have got, as far as we have been able to go. There are some gentlemen here who, I think, represent some of the companies that I represent in bulk, and they will perhaps say anything that occurs to them as to their particular companies. We have not been able to arrive at anything like an agreement with all the companies—I think there were some twenty odd, I spoke of when I was here: but I will mention the companies which seem to agree upon something which at all events all think would be the proper basis of taxation. Among the gas companies, there is the Consumers' Gas Co., of Toronto; the Sarnia Gas and Electric Light Co., the Chatham Gas Company, the Port Hope Gas Company, the Kingston Light, Heat and Power Company, the Ottawa Gas Company, Berlin Gas Company and the Toronto Electric Light Company; and among the Street Railways there is The Hamilton Street Railway, The London Street Railway, The Berlin and Waterloo Railway, The Kingston, Portsmouth and Cataraqui Railway and The Hamilton, Grimsby and Beamsville Railway; among the telephone companies, The Bell Telephone Company. The Commission will recollect there were a great many more companies. I do not think we ever did include on our list the Toronto Street Railway Company, because I think that was represented; and the telegraph companies we have not been able to arrive at an agreement with regard to; and they stand out. As regards all these different companies, which, as you will see, includes companies for the supplying of heat and light and for the transmission or for the use of electricity in the shape of telephones and so on, we have endeavoured to do what could to obtain information upon what basis it would be reasonable to tax them. With regard to the general subject, the Commission I am sure will agree in this, that when, as has been suggested, you should tax all real and personal property at its fair value you are simply suggesting a law which the taxing power could not carry out if they would, and would not carry out if they could. It is a law that has been found impracticable everywhere; it is a law that, as admitted, the taxing power as regards a good many classes of business couldn't attempt to carry out because it would drive them out of business, and the interest of the taxing power and the interest of those who pay the taxes is ultimately practically one and the same thing, that is to say, if one reads a little about it, or thinks a little—which I fancy the great majority of people never do until it is brought before them—they find that ultimately it is not the person who is taxed who pays the taxes, that is to say, there is no object in the community taxing a business unreasonably high because the tax in the end falls on the consumer; and it is not in the interest of the community a bit more in the end than that of the person who pays the taxes that the taxes should be reasonable.

Just to put the commonest instance in the world, we find it constantly stated that a man living on some by street might sell his goods cheaper and give you better terms than a man living on King St., and the reason is, he says, "Because my taxes and rent are so low." Well, who pays the taxes and the rent on King St.? It is the man who buys the goods from him, and that result which is practically treated in the books as a diffusion of taxes is universal; I find it laid down as a principle that taxes are something like water; they will diffuse themselves throughout the community. I am speaking of course of business taxes, not of those of a man who lives on his income and does no business, but speaking of business taxes, which are really the only taxes we care much about, which are the vast bulk of taxes. You have to endeavour to get at something like a reasonable taxation in order to suit the interests of the two sides of it. Then we see another phase of it—the difficulty in this subject to my mind is that such absolutely plausible and apparently common sense things are said which strike one at first sight as

right, but the moment you come to think them out you see they are absolutely wrong; and when you come to talk of taxing corporations on the same principle as individuals you find the thing cannot be done and that is all. Business corporations differ essentially from individuals. You may with business corporations find some kind of basis, of which several have been considered by writers, which will be reasonable and which will be fair and which will be probably thoroughly workable, and that does not apply to business men at all. The property of business corporations, and their only property, is in their business, their real and personal property corresponds to their business. I mean, all that they have is got for their business and employed in their business; and what results from that is all that they really have. That does not apply in any sense to an individual. An individual who is in business may have a house worth $100,000 and a very small business, and the moment you begin to tax him as you would tax a corporation, on the business, and not on his other property, you see at once that the taxing power is defrauded. That does not apply to a large majority of corporations—I would not say it does not apply to any—because I am only speaking now of one class of corporation, and the great difficulty we find is you have to get one law, if you can, which will apply to all subjects of taxation, but the real truth is that you can get at no equitable system of taxation which will be always equitable without considering each class and in many cases each member of that class on its own circumstances and with regard to its own position. That is impossible. Therefore you have to adopt some rule and condition according to each practice and principle up to this time which I suppose will be adhered to; you have to adopt some rate which will be universal over all So far as corporations are concerned my own impression is—though it is only an impression, because there are objections to every system you support—my own impression is that net profits is probably the most equitable and most reasonable system; I do not mean to say it is free from objections at all, because I think it has a great many objections, and some of the objections strike me as very much more forcible than they are supposed to be, because I find one writer of repute, Prof. Seligman, adopts that as being undoubtedly the equitable and reasonable and right principle. Speaking for myself I do not see that plainly at all. If you tax people only on their net profits the result is that you have a man say with half a million capital carrying on a business here; he understands his business, he attends to his business, and he makes a good profit; on the other hand you may have his neighbour with a similar capital who neither understands nor attends to his business and who makes nothing. Why the successful and hard-working and capable man should pay the taxes of the other is not very plain to me. Why he should pay taxes and why the other should get off does not appear to me apparent except on the principle that one is able to pay and the other is not. That again only drives you deeper down, and the question is, upon what does the right to demand taxes depend? Does it depend upon the moral obligation of the man to pay that for the advantages which he gets, derived from what the taxation produces, or does it depend upon the ability of the man to pay? If it depends solely upon the ability, as some people say, you should tax a man for everything he has got, or what he can afford to pay; but the limit of taxation is just what you can squeeze out of him, and what you can squeeze then out of the capable man is never too much, while you let the other man go free. But I do not think that reconciles itself to the sense of equity of a great number of people, at all events it does not reconcile itself to my sense of those qualities. But there is another further question with regard to net profits that I suppose would be fatal to it, and that is the difficulty of ascertaining them. I do not mean the difficulty of finding it out altogether from corporations who wish to conceal it, but I mean with regard to a good many companies—and it is illustrated in some of the companies I represent, I mean in regard to which they do not agree at all, as to what their net profits are, in other words what they ought to charge to revenue and what they ought to charge to capital. I remember, for instance, with steam railways being told many years ago in a matter in which we had to do with the subject a good deal, that all the large railways and the authorities on railway management and operations were very much at sea themselves as to what ought to be charged to capital and what ought to be charged to revenue. I mean, if you take a common instance of a railway company replacing a wooden trestle by an iron bridge or embankment the question is how much goes into capital and how much into revenue If they did a great deal of that work in a year and charged it to revenue they make no profits; if on the other hand they charge

it to capital then their profits are exorbitant. That is one difficulty with regard to adopting the net profits as a basis. You cannot tell exactly what a man is making. Instead of seeking to get at what he is making in the shape of net profits, I think you can get exactly what he is laying aside as a sinking fund, taking into consideration the nature of his business. To take the commonest and simplest instance that occurs to me, take a cab man with one horse and a cab, and he may tell you with great truth that he is making $200 a year net profits, but when you come to ask that man what he is laying aside to buy a new horse and new cab when the present horse wears out, or the cab becomes useless and you find he is laying by nothing, then you know he is not making the $200 a year, that is not his net profit. His only net profits are such a portion of his earnings as he can properly lay aside consistent with the permanent continuance and carrying on of his business. I say therefore that the difficulty in the way of dealing with net profits does not consist by any means altogether in the facility of concealing them intentionally; it also consists in the difficulty with regard to the different classes of businesses and different views taken by the proper conduct of those classes of business, consisting in the question of what really ought to be adopted by the people themselves. One may honestly adopt one rule and another may honestly adopt another rule; but the real difficulty is, I take it, because there is no use disguising that people will try to escape taxation almost any way they can. As far as I can see the general impression, if my comprehension is not an erroneous one, seems to be that the tax gatherer is a sort of enemy to the human race. Why a man who comes to me to say that my taxes should be paid should be more obnoxious to me than the butcher or baker does not occur to me for a moment, because he is asking for taxes to pay for things just as essential to my life as the butcher's or the baker's goods may be. But, however, that may be, if you can get a rule which will be certain in all cases, which will be uniform, and which will as far as possible apply with reasonable fairness to all the several taxes to which it is thought to be applicable, you cannot get beyond that; there will be cases of great iniquity, and there would be cases in which it operates very unfairly no matter what you do, and the conclusion we have come to is that the only way that reconciles itself at all to us with regard to the taxation of such companies as we represent is that of gross earnings. Now with regard to the Scrap iron Assessment I say, just as I said before, that nobody can defend a system the result of which is the legal decision which we have in our reports; but the difficulty in reality is much more in the procedure and the method of getting at it than in the thing you get at. I observe that my learned friend, Mr. MacKelcan, had not considered the desirability or propriety or reasonableness of taxation of franchise, but as a matter of fact the moment you depart from the scrap iron basis you must tax the franchise, that is what it comes to. If the property of these companies is worth more than scrap iron it is in one shape or another because you tax the franchise. My learned friend said then, "While we have not considered the propriety of taxing the franchise, at the same time I think the franchise might to a certain extent enter into an estimate of the value of the property." That is merely another way of saying, "We have not considered the thing, but we think it ought to be taxed," because the moment you say the franchise enters into the consideration of the value of the property you are taxing the franchise. The moment you come to tax the franchise you will find, in regard to the companies I represent,—and I do not want it to be understood to be any more general than that, there are a great many companies my remarks have not any application to at all—but you will find in a good many of them the franchise is not a monopoly at all; with regard to the gas and telephone companies they simply have a privilege, but the authority which gives it to them is perfectly at liberty next day to give it to somebody else. If that is a franchise it is in a totally different sense from a monopoly. Then, you will find that the companies which have a monopoly have only got expiring franchises and limited franchises, I mean for a limited term of years——

The CHAIRMAN: Terminable.

Mr. ROBINSON: Yes, a terminable franchise. It is absolutely evident to a person that thinks for a moment, that if you say the scrap iron basis is wholly unintelligible there can be no other valuation proper or fair or reasonable but the scrap iron valuation as you near the conclusion of the franchise. For instance, take the Gas Company, or take the Telephone Company, or anything else, and in the last year of that company's franchise it is not worth anything except scrap iron to the company, and the best proof

of that is that in some of the agreements which we have for the municipality taking it over there is the agreement that they are to take it over at what it is just worth as material. The difficulty is, when you attempt to tax a franchise, as I am trying to look at it, that what they call the franchise which would be worth so much the first year would be diminishing in value towards the end, and in the end it would be worth nothing; in other words, the material would approach a scrap iron basis more and more till it got to the end of the life of the franchise.

The CHAIRMAN: That would be so if it were to expire absolutely.

Mr. ROBINSON: Yes, I am speaking of where it does expire absolutely.

Mr. JUSTICE MACMAHON: If the municipality takes it over?

Mr. ROBINSON: Yes. It does expire absolutely in that sense if the municipality have a right to take it over, unless they have declared their intention to give a renewal.

The CHAIRMAN: They can only take it over on the terms of paying its full value?

Mr. ROBINSON: Yes.

The CHAIRMAN: Then it may be regarded as perpetual, I suppose?

Mr. ROBINSON: Oh, if they pay the franchise; but you will recollect the celebrated case which went to the Privy Council in regard to the Toronto Street Railway in which my learned friend, whom we all lament, Mr. Dalton McCarthy, contended that the Company was entitled to something for the franchise; and the appeal went on to the Privy Council, but the Privy Council said, "No, the franchise has expired, it has come to an end, and you are not entitled to anything for the franchise at all."

The CHAIRMAN: They were entitled to nothing except the just payment of the value of their property?

Mr. JUSTICE MACMAHON: Just the value of their property where it is, with the right to use it.

The CHAIRMAN: That is, their physical property?

Mr ROBINSON: Yes, without the right to use it for the purpose for which it was built. That, as I understand it, is scrap iron. I do not myself make these remarks with the view of defending the scrap iron valuation; I am only pointing out the real inherent difficulty is rather the mode of procedure than the result of that mode of procedure. With a great many of those companies you could not get at anything else, and more especially towards the end of their franchise. Then again we know, without entering at all into Mr. Fullerton's argument or discussing its validity as to what is paid by a railway company or by any other company for the right to go into their undertaking and carry it on, whether you choose to call it purchase and sale, or whether you choose to call it payment for a franchise, it is a thing that has to be considered when you come to talk of taxing the franchise, I say to what extent, as in the case of the Toronto Railway Company, where they actually hand back to the taxing power a certain portion of the money which they earn, or whether that pertains to the franchise or not, I do not pretend to say. But I say a great many of these companies acquired their franchise in a way which has to be considered when you come to discuss the equity of taxation.

The CHAIRMAN: Something like the rent a tenant pays for an easement; he pays an annual sum and perhaps pays a large sum for the privilege of getting it.

Mr. ROBINSON: Yes, probably.

The CHAIRMAN: The two have to be regarded, what it has cost him and what it is worth to him.

Mr. ROBINSON: Yes. The only difference is that the tenant there has a right of renewal; in our case there is generally no right of renewal, but it rests with the municipality to take over the thing or not to take it over; and then this sum which is paid is paid to the taxing power. That is a reasonable view to consider. It is not like being paid to a stranger. If this franchise were obtained from a stranger there would be less difficulty than there is in our system, because they would say, "We do not know anything about where you got it or what you paid for it; it is valuable property and we will assess it." But you must consider you buy the franchise from the power which is assuming to tax it.

The CHAIRMAN: In other words, if another company were going to buy from the existing company they would have to deal, not only with them, but with the municipality; they would have to get their franchise from the municipality and their property from the existing company?

Mr. ROBINSON: Yes. But here is the power which gives them their franchise, which got some consideration for it, whatever the consideration may have been, assuming to tax the franchise, if they do assume to tax it. That is a thing I think you have to consider. I only thought this over in my own mind as well as I could because Mr. MacKelcan said they had not considered the question of taxing the franchise, and said, as I thought rather vaguely, that it might or ought to enter into consideration of the value of the property. I thought these difficulties occurred to him in the way of any proposition to tax such franchise. I do not very well see myself the principle on which you should tax them or how you can get at it. And I see this difficulty, too, which is met by the system of gross receipts in the case of a terminable franchise such as I have spoken of. If you assume to tax them on their business or on their gross receipts or net profits, then the result would be that that property, so far as the franchise was concerned, might form an important part of it; coming to an end it would be worth nothing, and their taxation at the end of their franchise would be excessively small, whereas their gross earnings continue, and their gross earnings would be just the same on their last year as on their first, as they ought to be; in other words, it seems to recommend itself to those who are in favour of this basis of taxation, which, upon the whole, so far as I can judge, is really the most reasonable one, always assuming you are dropping the attempt to tax personal property. I assume that if we are going to have any well considered system of taxation we have got to adopt that; if not, we have got to go in the face of nearly all the authorities that I have read, at all events, who have considered the question. If you can get a community or a municipality where the taxing power is used with discretion and common sense, and is in the hands of a person who knows the mutual interests that are involved in it and is willing and able to consider that fairly, I do not think you can have any better system than to give him a very, very large discretion; but it is absurd, when you are talking of what law you ought to pass, to pass a law and tell another person he may enforce it or not just as he pleases, because that is a law that applies to all municipalities, and you will not get in all municipalities people who are capable of enforcing such a law; and we all know—I see, for instance, in the *Mail* to-day someone tried to summarize the result of the State of New York, and I may say of all the States; as far as I can tell, speaking about this generally, they are just engaged in a series of experiments—almost every State is trying some different system of taxation; and I suppose in the course of the next ten years they will, by experiment and comparison of notes, arrive at something as to what is the best system to adopt. They are all different at present. The writer there says: "Now in the State of New York all personal property is taxable, but no attempt is made to tax it at its value." What is the sense of passing a law which says "all property shall be taxed at its value" if the taxing power makes no attempt to carry this out? Then if you get gross earnings it would seem reasonable that you should not tax the whole of the gross earnings, because that would be opposed to the idea that net earnings are anything like the most equitable principle; net profits, I suppose—I cannot say in regard to different businesses, because different businesses differ so much—would range anywhere from ten up to forty or fifty per cent, and I do not see very well how you can get at a taxation of which net profits are the basis of our present rate—our present system of uniform rate. I mean the limit of rate which we get would not make your taxation equal and impartial if you attempt to base it on net profits. Our calculation is, therefore, that if you take about sixty per cent. of the gross earnings and tax them you would arrive, taking one company with another and taking them all, at what would be nearly reasonable. The companies, so far as we have been able to get them to go into this—and want of time has prevented us either from finding out all that we wanted to know or laying before the Commission what we would like them to know—the result seems to be that that would come out about reasonably both to the taxing power and the taxed; but I am not in a position to give you all the details on which that conclusion is founded. I think that in the first place, as you will readily see, a great many returns are made up by these corporations in the country, and they have been sent to us in the last few days; and they say, "These returns, of course, are for your own information." No corporation, of course, wishes to publish all the details in minutae of its transactions for the purpose of its publication without some good object is to be served by it, but I do not believe there would be any difficulty in getting these companies—at all events, the majority of them—I do not

speak with any authority in this respect, but I speak with respect to what I told them I think they ought to do—I do not think there would be a great difficulty in getting a number of them to lay before the Commission the details of what business they are doing so that you could see precisely how the system that they themselves have suggested would work out.

The CHAIRMAN: You think they would require to make a return to the Government every year such as the banks make?

Mr. ROBINSON: That is just for the Commission to consider. We all know the main objection to the income tax, and we all know that when you go to companies and ask them to expose all their affairs———.

The CHAIRMAN: I asked the question because of what you said, that the statistics which had been furnished to you had been merely for your own information to enable you to make your argument and not for publication, whether the Companies would object to make a return of gross profits every year?

Mr. ROBINSON: Of their gross earnings, not the least.

The CHAIRMAN: There would be no objection to that?

Mr. ROBINSON: No, none to that I say gross earnings recommends itself to me more particularly for this reason, that gross earnings are things that anybody can find out. I do not think the gross earnings of any of these companies, of any company of a public character, is a matter of secrecy. It is not the gross earnings that we have the smallest hesitation about making public, because that must be known to all shareholders and the public. It is all the minutiæ of the business which will show you how the basis that I have spoken of, the 60 per cent., would work out

The CHAIRMAN: Then do I understand your argument to be something like this: the really just principle would be net profits as a basis of taxation?

Mr. ROBINSON: Yes, I think so; I say the most just and nearest approaching——.

The CHAIRMAN: If it was feasible.

Mr. ROBINSON: Yes.

The CHAIRMAN: And your suggestion of taxing a portion of gross profits is a rough way of ascertaining the probable net earnings.

Mr. ROBINSON: I think it is. Another way of doing it, as suggested, is say to tax them on their net profits, to say that their net profits shall always be taken to be not less than so much per cent. of their gross earnings, and then if it can be proved that their net earnings are a greater proportion, tax them upon it. That would mean, we all know, that if that basis was not taken permanently it would not be worth while taking the trouble. It is only another way, it seems to me, of putting that proposition; I do not see any difference at all. I am quite aware that this proposition in some senses is a rough one——. I mean that people may raise all sorts of objections to it. All that I will answer to that is, show me any other system that I cannot raise some objection to and then I shall acknowledge that it is not the best system; but I do not know any system that is open to so few objections as this. Gross earnings of a company must represent the business that it is doing. In the case that I speak of, of the two men, the one competent and the other incompetent, they would be treated equally, that is to say, if a man does not treat his gross earnings with judgment and with success and if it is his own fault that he does not get any good by it, he does not get off his tax; and another thing is, the gross earnings practically of these business companies do represent the proceeds of all the property they have got.

The CHAIRMAN: Do I undertand you to say that you would apply the principle to mercantile business also?

Mr. ROBINSON: Well, I have not considered that. I am not representing those companies.

The CHAIRMAN: I thought you just suggested that.

Mr ROBINSON: Oh no, I am not suggesting that. I think it was Mr. Thomson who did represent some business manufacturers' interests if I recollect rightly that I saw in the paper. I had a talk to him last evening, and I understood that he represented them, and I have not considered that at all. In fact it is only within the last few days that I have been in a position to meet these gentlemen, that I have got this information they give and talked to them at all. I think I have got here a proposition. I asked them to

put in writing the conclusion they had come to as near as they could, and it is in these words:

"A tax as hereafter directed to be ascertained, shall be imposed upon 60 per cent. of the gross earnings from local or Provincial business of companies for the supplying of water, light, heat and power to municipalities and the inhabitants thereof, telephone companies and companies operating street railways and electric railways; such tax to be in lieu of all taxes, rates and assessments of every nature (including school taxes) upon the real and personal property of the company acquired and used for the purposes of the same.

"A Provincial Board to be appointed by the Governor in Council shall ascertain in each year the total gross earnings of such companies for the preceding year and shall apportion fairly the assessable part of such gross earnings between the municipalities in which the company operates, and thereupon the said municipalities may each of them assess such companies at their respective current rates of taxation upon an amount equal to the proportion of the gross earnings of the company so apportioned to each of them by such Board.

"The Provincial Board shall have the power to reduce the taxes to be paid by any company on such percentage of gross earnings in cases where to exact the whole amount thereof from such company would be unfair or inequitable.

"Existing or future contracts for exemption from municipal taxation not to be affected."

Now, in regard to the local or Provincial business, that created some discussion, because if you take an organization like a telephone company,—that does not apply to the smaller gas companies whose whole business is done in the municipality,—but if you take a company like a telephone company it gets a message here to send it to some place in Quebec or perhaps some place in the United States. How much of that is to be local or Provincial it is difficult to decide. The impression I had was that in all cases of that sort whatever proportion of their business originated in the Province and was earned in the Province ought to be taxed as Provincial business. That is, I understand, what is meant.

The CHAIRMAN: I understand.

Mr. ROBINSON: For instance, if they sent a message a couple of hundred miles to Ottawa, and another hundred to Quebec, and it originates in Toronto, I should say the Province ought to get for their purposes of taxation the portion of that remuneration for that message that was earned in the Province.

The CHAIRMAN: You would make a mileage proportion?

Mr. ROBINSON: Well, either a mileage proportion or a business proportion; I mean I did not ascertain what their arrangements are.

The CHAIRMAN: What would you think of making those earnings Provincial which are paid in the Province?

Mr. ROBINSON: Except that if you pay something in the Province, for instance, two-thirds of which is earned by carrying that message outside of the Province, and which is very possibly taxed outside the Province, I should not think it fair to tax it in this Province. I think in my own mind it would be fair to say, what originates in this Province and is paid for in this Province should be taxed to the extent of all of it that is earned in this Province. I could not get further as to what seemed reasonable than that.

The CHAIRMAN: It would make it a very difficult account to be kept.

Mr. ROBINSON: Yes, perhaps, I don't know that it would be so.

The CHAIRMAN: You send a message to Quebec and it is paid for here—that would be Ontario; a despatch is sent from Quebec and paid for there—that would be Quebec business.

Mr. WILKIE: How would those earnings be distributed amongst the municipalities?

Mr. ROBINSON: That I was just coming to; I thought I would just stop there to explain to you how that matter of local and Provincial business was discussed between us and what was thought of it. I do not know whether it is a mileage or a proportion business or what it should be; how you are to arrive at it I am sure I don't know, and I am old as a matter of fact that it is not a matter of very great consequence, that is to say, hat the proportion earned in that way outside of the Province is not so very great that t is of great materiality. That power of exemption was put in to meet extraordinary

cases of fire or accident which were without the power of the company and prevented it from being in a position to pay taxes for a year, as I think we have some such provision as to vacant houses that gives power to be exercised in exceptional cases. I don't know that I can say very much more. The difficulty of course is to arrive at a reasonable proportion of the gross earnings. To tax the whole of the gross earnings of the company would practically, as we find by the result, be unreasonable and extreme. I have tried to test this system and see how it would work out in different places, and it is difficult. Beyond question it would be immensely better for the municipalities than the scrap iron basis, but I am told that in some counties, the rural municipalities, there is no great difficulty, they all seem to agree on taxation; the great difficulty is with the large companies in the cities. For instance we were told by Mr. Fullerton I think here that there were two companies here, I think the Consumers' Gas Co. and the Toronto Electric Light Co., that had not taken advantage of the scrap iron system, and they had arrived at something like a reasonable view of the value of their property. If so, all I can say is, that is to their credit; but I think I heard him say afterwards that they had recently fallen from grace, and that they were disposed to go back and adhere rather to the scrap iron decision. I don't know how that is, I am sure. I tried to formulate in my own mind some basis of valuation if you wanted to adhere to the old system, some basis which would go between the scrap iron and taxing the franchises, and I failed to get it. I failed to be able to define in my own mind anything that would come near enough I suppose that what these gentlemen have arrived at between themselves and those two companies is something like what every man by instinct sees in his own mind is fair and reasonable and will answer the purpose, as opposed to what you can put into any definite formula. I don't suppose, for instance, that in writing those sums which Mr. Fleming thought fit to put in for the Electric Light and the Consumers' Gas Co., that he did it according to any rule that any human being agreed to put in words, but he put them in looking at what he thought was a reasonable and fair sum to assess their property at; and speaking for myself, if we had people who acted on that principle throughout I think the best law would be a law that would give them a very wide discretion. But there is no use saying that to a Commission that is bound to give them a law that will affect everybody alike; and the best law that you can have in order to offer premiums to dishonest men is a law that the lawmakers do not expect to be enforced and that if enforced does more harm than good. It is to escape that that we have suggested this system. It must be remembered that if you get a large company employing a large number of men, a large proportion of employment goes into stores that increase the taxation of the community and that ought to be considered; it goes to the employment of labour, to the employment of men living in the municipality who pay taxes. If you take off 40 per cent. of the gross earnings of a company of this sort and leave yet in their hands something small, it is taxed in other hands, it goes to men who pay taxes in other forms, it goes to make property and becomes taxable and the municipality does tax them. But it has the advantage at all events of being always known. There is no difficulty about returns to government, as I understand it; as to that there can be no objection. There is no difficulty in ascertaining what the gross earnings of every company are from year to year. There is no opportunity for deception. There is no opportunity for concealment; and it is fair, because those earnings represent all that can be got out of all the property they own. Speaking as a rule none of those companies acquire property except for the purposes of their business, and for the purposes of earning money and putting into their business and to get money out of for the purposes of their business; and if you say to each of these companies, "How much money have you received the last year, and we will tax you on that?" So far as we have been able to get at the bottom of this matter up to the present and have been able to give the Commission information, we have suggested what I think is the most reasonable and fair basis. What I should like to do—because I do not see any cause of making two hostile camps of this matter—would have been to get all the information of that kind which I could and not only give it to the Commission in confidence but I should like to have shown it to the taxing powers and gone over it with them and asked them what their objection to it would be; but of course we cannot always get at that in business matters. I am quite willing to get all the information we can subject to what I have said, and communicate anything I can find out to the Commission for the purpose of their actions, and quite possibly I may be able to go further in the direction I

have already indicated, but I cannot say; but that is the proposition which I have read now which so far as I have gone we have been able to agree upon. It hurts some companies, it helps others. There is one company whose taxation is pretty nearly doubled by it; there are other companies which get off a good deal by it; but when they came to talk it over they thought they would rather have that and know where they are than be subject to an uncertain basis.

The CHAIRMAN: Have you attempted any definition of gross earnings that would be generally applicable?

Mr. ROBINSON: I did not think of that, but I think I could frame that. Any money that they receive in connection with their business for the purpose of their business is the earnings of their business. For instance, I was asked a question, and I just put that—I don't know that we did come to a conclusion about it, it struck me as a very typical thing—that a gas company sells coke largely, and someone said to me, "Would you call that part of their gross earnings?" At first I said, "No, I would not," but I came to think it is what they get in connection with their business, it is the selling of their refuse product; but then it was put to me in this way, "Well, I do not know, a gas company buys a ton of coal, they make so much gas from it and they sell that, and they make so much coke from it and they sell it; why are not both earnings from their business?" "Well, when you put it in that way," I said, "I see clearly the answer to it." But if that was refuse, if the gas company were selling a pile of old iron which was laying in their yard, I should hardly call that earnings of their business. But subject to observations of that kind, I do not see any difficulty in saying what the gross earnings of these companies that I represent are. Of course you can conceive a company in reference to which there might be difficulty in saying it. I am speaking for these companies. Take, for instance, the Telephone Company; I do not see at this moment any difficulty in saying what are their gross earnings.

Mr. WILKIE: Would you deduct salaries from gross earnings?

Mr. ROBINSON: Oh, no, that goes to find out their net profits. I should not take anything

Mr. WILKIE: Gross receipts?

Mr. ROBINSON: Gross receipts is what I mean.

The CHAIRMAN: New extensions?

Mr. ROBINSON: If they extend new lines and get their earnings I should not deduct it.

The CHAIRMAN: Have you found any State in the Union or any of our Provinces which have adopted this system?

Mr. ROBINSON: No, not of our Provinces; I don't know, and I don't profess to be thoroughly informed upon that subject at all. I read some reports of the different States, and they seem to me to be rather confined to telling what each State has been aiming at and trying to work out different systems. I saw one book in which page after page said in New Jersey they are doing so and so, in New York they are doing so and so, in Wisconsin they are doing so and so, but I know there are States in which they do tax on gross earnings.

Mr. JUSTICE MACMAHON: They lay down generally that that is the fairest way, and it is the only proper way by which taxation can take place, because you can never reach the net earnings of almost any concern; they can cover it up in so many ways that it is impossible for the taxing officer to ascertain.

Mr. ROBINSON: In Pennsylvania, my learned friend, Mr. MacMurchy, tells me they tax gross earnings and exempt the property. I should say Pennsylvania is one of the most intelligent, conservative States that we know of. I cannot give you much more information on that; I could easily find it out. But what I have been trying to find out is not what everybody is trying to do, but what conclusion they have come to as to what is most reasonable, and I think the general consensus of opinion is the gross earnings.

The CHAIRMAN: If we knew any State where that principle had been adopted we could perhaps find out how it had worked.

Mr. ROBINSON: Then with the permission of the Commission we will try and ascertain that and let you know.

Mr. WILKIE: Would these be in lieu of all taxes?

Mr ROBINSON: That would be in lieu of all taxes.

Mr. WILKIE: Including taxes on realty?

Mr. Robinson: Oh, it would include all—everything; it is what they earn.

Mr. Wilkie: And in lieu of local improvements?

Mr. Robinson: No, it would not be in lieu of those, but it would be in lieu of everything else.

The Chairman: In lieu of school tax?

Mr. Robinson: Yes, in lieu of school tax; I mean it includes the school tax.

The Chairman: And there would be no difficulty, I suppose, in that case either, because it could be apportioned in the same manner as at present?

Mr. Robinson: Yes. Of course the school tax would be levied just on that proportion; that is to say, in such a municipality there is a rate of whatever you like—two mills on the dollar or three mills—which would be handed over to the schools as their proportion, and they put that tax upon it; but with regard to the question that might be asked, as I understand, the theory upon which this tax is a substitute for everything else is that it is a tax upon the product of everything else. That is to say, a company carrying on business has its realty, has its personalty; both the realty and the personalty are owned by them and employed by them simply for the purpose of making those earnings, getting those receipts, and those are what they get out of that property. Now that is very much the same principle as what is called rental value, in other words. You see what I mean. The value of everything, the value of real property, the value of personal property, I don't care what it is, ultimately comes to what you make out of it for business, the value of a lot of land anywhere.

The Chairman: How do you answer this suggestion, that in that case a company which had a freehold in their franchise and would sell it to another company, might sell it for a very large sum, that would pay the same taxes and no more than the company which had only a 25 year or 20-year franchise?

Mr. Robinson: No, not exactly, I should suppose, because if their franchise was a very valuable one, the value would be shown by the receipts.

The Chairman: But their earnings would be the same in the same circumstances. Take a company in Toronto, imagine one has a freehold, another a franchise, they would be assessed according to earnings, and suppose that same company had only a terminable franchise, 20-years for example, and at inspection they would have the same tax; does not that look like inequality?

Mr. Robinson: No, it just occurs to me now that you put the question, my impression is that the company which has freehold in its franchise and has a monopoly would practically make larger earnings by reason of that. For instance, take the Telephone Company——

The Chairman: Earnings depend on efficient service and the extent of their custom; that would be the same in both cases.

Mr. Robinson: And freedom from competition, I suppose.

The Chairman: Which would be the case until the end of the term?

Mr. Robinson: Until the end of the term. Take the Telephone Company for instance. I see now there is some sensation, some excitement now about a rival company, which I suppose there is no objection to starting—I mean the municipal interests have the power to start. Well, I should say that if it was started that would diminish the gross earnings.

The Chairman: But in the meantime it does not?

Mr. Robinson: No.

The Chairman: Until that time arrives.

Mr. Robinson: No. I don't see how you would get over that.

The Chairman: And if the competition did arrive it would diminish the earnings and it would equally diminish the value of their property if they had a freehold in it.

Mr Robinson: Yes, of course it would, just the same. Then you see the municipality get the taxation on the earnings of the other company.

The Chairman: Do we find the solution of that apparent inequality in this way: At present the landlord and tenant are both assessed, and assessed for the same amount; the tenant is assessed just as he is, in the enjoyment of something of particular value at the present time, and so he ought to pay the taxes for a year according to the full value.

Mr. Robinson: Of course it is not the full value in his hands, I mean he could sell it for that value.

The CHAIRMAN: No, perhaps he is merely the tenant from year to year.

Mr. ROBINSON: I don't see much use of talking about the present law, which is an absolute absurdity. We are told to tax things at what a creditor would take them at from an insolvent debtor. Now I should like to know, as I heard asked, what would you do with the Union Station on that basis? You could not sell it for a dollar to anybody except to the railway that wanted it.

The CHAIRMAN: The tenant should be taxed on a different principle from the landlord according to that definition.

Mr. ROBINSON: Yes. We have only applied our present principle of valuation by common sense and disregarding the law. As my learned friend says in England, as they did here in old days, they took the rentable value. If they did, that would make no difference, and practically that is the basis of all things, the rentable value is what you can make out of it.

The CHAIRMAN: Have you considered the English law of taxation?

Mr. ROBINSON: Oh, not very clearly.

The CHAIRMAN: Is there any light to be got there?

Mr. ROBINSON: I cannot say that I have. I should have liked to have had the opportunity of really considering this question with something like thoroughness, and finding out all I could. The only satisfaction in my not having done it is that I find those people who have devoted their lives to it come out about as doubtful as I am at this moment, and therefore I am not very sorry that I have not spent time over it. I cannot find that the authorities agree even on the main principles.

Mr. JUSTICE MACMAHON: The gross earnings system prevails in Ohio and Wisconsin.

Mr. ROBINSON: It strikes me as less objectionable than any other. Of course the Commission will understand that I am not speaking of steam railways in this connection at all; they have been disposed of before, and I have nothing more to say.

Mr. WILKIE: Would there not be inducement to companies to invest very largely in real estate beyond their requirements?

Mr. ROBINSON: Well, I should think not, because that would be absolutely silly.

Mr. WILKIE: For speculative purposes?

Mr. ROBINSON: Well, that would be objectionable because in the first place it would be beyond their powers.

Mr. MACPHERSON: It would be part of their gross earnings in any case?

Mr. ROBINSON: The gross earnings would be taxed on the way to get into this real property, and when they get into the real property some shareholder would say they are going beyond their powers and had no power to purchase real property. All companies are limited to the amount of real property they can hold; for instance, a bank cannot invest any more than a certain amount in real property. Most companies are limited to the amount of property and hold it for a limited period.

Mr. JUSTICE MACMAHON: The telegraph and telephone companies are very limited in regard to real property by their charters, very much limited.

Mr. ROBINSON: Perhaps the best answer to that is just what Mr. Hellmuth suggests to me, that is, exclude it for our purposes altogether. If they get any real property which they don't use, which is not used in connection with their business, that is to be taxed separately; that is outside of this arrangement altogether. It says, "to be in lieu of all taxes upon the real and personal property of the company acquired and used for the purposes of the same." If they choose to build a handsome building and let it out, as for instance, the Toronto Street Railway I observe have built chambers a part of which is rented to tenants, I would not say that is used for the purposes of their business.

The CHAIRMAN: What about hotels?

Mr. ROBINSON: Hotels, your lordship knows, have been held to be a legitimate use of corporate moneys in some cases. We do not want this system of taxation to apply to anything except what we have and use for our purposes.

Mr. LYNCH-STAUNTON, Q. C.: Mr. Chairman and Gentlemen, I am associated with Mr. Robinson and the other gentlemen who appear for these corporations, but I particularly want to put before you the case of the Bell Telephone Company. In reading the accounts that appear in the newspapers' presentation of the different cases which have been brought before this Commission I see they they have been practically unanimous so

far until to day in endeavouring to present their cases before you gentlemen, not in order that they may all be taxed for the full value of their property but in order that they may get some portion of their property exempted. Most people that have been here say it is neither just nor practicable that all the property in the Province should be taxed; the Board of Trade was represented here the other day, and they made a very forcible case for the exemption of manufacturers and merchants and other people, and although I may be perhaps mis representing them, you gentlemen will know whether I am or not; they at the same time urged that such corporations as we represent should be taxed to the full extent of their property, and in addition, to point out to you the enormity of their escaping from some portion of the fair value, as Mr. MacKelcan and Mr. Fullerton called the property which is "in sight," while they at the same time thought it was quite just, and fair, and practicable that *they* should escape, they put in a memorandum here to show that the Bell Telephone Company and Toronto Street Railway Company, while the law was that they should be assessed on all their property, were assessed on a very insignificant part of it. I wrote to Mr. Ames and got him to send me that memorandum; and I found he said the Bell Telephone Company's property in Toronto was assessable at about seven or eight hundred thousand dollars, while in fact it was assessed at something below $100,000. Now, I do not desire to get into a controversy, but the evidence is all in print—I have a copy of it and I think the city authorities have; but the way that assessment was arrived at was this: Mr. Lash, before a Committee of Parliament, was said to have stated that the corporations had invested in the City of Toronto $700,000, or $900,000, I am not particular about the exact figures; but any person who knows anything of the Bell Telephone or other of the corporations of that kind knows that although it is said some classes of property disappear about every twenty years, other property is renewed three or four times in the course of twenty years. For instance, in assessing us to make up that $700,000 they assess us upon the Temperance Street switch board at about $80,000, although it was proven by their own witnesses before Judge McDougall that that switch board originally cost less than $50,000. That is the way our property was raised to this enormous value; and there is nobody I think but thought it was at least put at a couple of hundred thousand dollars more than it would cost to reproduce it; but the newspapers have again and again reproduced these figures, these fanciful figures of the values of these different corporations, and paraded them before the public for the purpose of prejudicing the public mind and so raising an idea in the community that enormous amounts of property were being excluded from taxation which should have been taxed. The companies have not thought it advisable to enter into a newspaper controversy, because when the newspapers take one side they have the last say, and they are never convinced, and there is no use our entering it; but these values were purely imaginary to an enormous extent even if we should be assessed upon the whole value of the property which we possess. Mr. Brock said here that he had an insurance, and I suppose his insurance is not more than the value of his property, of several hundred thousand dollars, and his assessment was about $3,000 a year; he also says, "If you assess me on the whole value I will leave the city and turn my place of business into a soup kitchen." Mr. Fleming, Toronto's Assessment Commissioner, promptly told him they would not make him leave the city; Mr. Fleming had the common sense to know it was absurd, that it is impractible to tax business people for all the property which they have. But a different rule is sought to be put in force in regard to corporations which cannot leave the city, which cannot leave the country; and this rule is being imported from the United States. I think that the first policy of the law is to encourage people to invest their money in enterprises which will benefit the community at large or increase the sum of human comfort. If men are to develop this country, a sparsely populated country as this is, and a comparatively poor country as this is, by street railways or telephones, or electric and all sorts of railway enterprise, it will not do in the public interests to have a drastic measure of taxation which will tax them, not at double the rate that their neighbour may be taxed at but at double the rate that their neighbour is in practice and in fact taxed at. As Mr. Cleveland said once, it is a condition and not a theory that we are face to face with. It is very fair for a man to sit down and say, in theory and justice you should be taxed so and so; but in enacting laws, in working out that which in Utopia would be a very fine system, we find in Canada it may be a very impracticable and unjust system. This Commission is not, as I under-

stand, for the purpose of finding out what additional taxation it can lay on the people, but rather how best to equalize the burdens which are borne by the taxable production or property in the community. I see that no person and no corporation, although some of them in law are liable to it, in this Province is made to bear a taxation upon its, or his or her whole property; and I think I am borne out in that without going into any elaborate argument on it by the evidence which has been brought before this Commission by the different deputations that have attended before you. You know it is said you can win an election or destroy a man by a catch phrase; there is a great deal more in the word scrap iron assessment than there is in the fact. If I wanted to compare it for a moment, the taxation upon our investment, putting our investment at what they say it was, $700,000; how many people in Toronto have come here and said that they are not taxed upon a greater proportion of that property in Toronto than they were? Take all the banks, take the departmental stores; they are not taxed—we are not taxed proportionately less now than they. That is not in theory, although it is in practice, an absolute reason why we should escape, but it seems to me that you must consider this, a corporation is not like a man who has a house; a corporation goes into business simply tempted into it by its money earning capacity, and unless it has a money-earning capacity he will not go into it unless he is deluded by something. Now, take the street railways, for example, of this Province, and I do not know more than four of them that are paying—I think the limit is three; some of them are in the sheriff's hands and some are in receiver's hands; nearly all of them are practically bankrupt; most of them are making no money. Would it be fair for the assessor to assess that property of these people at the cost of production or at its value, adding a fancy franchise to it, when he would go into the same city and find there an empty factory which he would take at an enormously less rate than if it was working, and a money-earning concern? A man who has got a street railway on his hands is not like a factory owner; the factory owner says, "If it won't pay I will close it up;" the ship owner says, "I will tie her up to the wharf;" but the man who has a public franchise must go on and work it through good times and through bad times, at a loss or at a profit, whether it pays him or whether it does not. How is the principle of "Tax all people on what there is in sight" going to work out with people who are owning companies which are in effect empty factories, operated at a loss? Take on the other hand a company like the Bell Telephone Company; it is a large corporation, operating from one end of this Dominion to the other. We have a great number of offices that we must keep open for the public convenience, they do not pay us a cent, and they would be better closed. This company for many years paid no dividends. It has paid, and it has been able to pay no more with proper management than between seven and eight per cent. on the investment. They say, "Oh well, you have got an enormous franchise, because somebody buys the stock on the market at 160 or 170," but the market is not the value; there are many people who buy shares in public companies not at what they believe is the value but simply buy them because they have the money, and want a safe investment. I have known funds—the English Consols, for example, to sell at 112 when they only paid 2¾ per cent. on par value. They are not worth that from a commercial point of view; they are simply worth it because some unfortunate person who is not able to invest their money themselves, and perhaps only have a small amount of money to live upon, chooses to take that and scrape along on a lower interest than the ordinary rate of interest. To take the investment of the Bell Telephone Company at $170 to-day, that has attained that value because for forty years and ever since it has come into operation first there was no idea of taxing this property at all, that is, its poles and wires; then there came the tax upon this scrap iron basis, and the public have bought that stock to-day to pay them five per cent. or a little less. If you you tax it at that value—everything in sight—you will tax it at the five per cent. basis, because the public has done it. What does that mean? It seems you are going to reduce that property by two-thirds of its value; it will shrink the moment you pass that law. It will shrink two-fifths because it will not yield to the investor more than three per cent. Upon what basis are you going to value it? The market basis before the tax is imposed, or after the tax is imposed? If you take it before it is imposed you tax it at an imaginary value even from that point of view. Then you knock out the investment of a lot of people who have bought that upon another and you reduce the value of their property by two-thirds. That has been the

reason why taxation is not put upon mortgages, because it had that effect, they say, in California; I think we have not get far enough along in our national development to adopt the principle that has been adopted in the United States; we have two or three reasons why we should not. We should not be guided in the least by their general principles. Take the State of New York, which has as many people as has the Dominion of Canada, and which inflicts a tax upon the City of New York at double nearly what would cost to run the Dominion of Canada; the taxation of New York is one hundred million dollars. In fifty years from now or one hundred years from now, when the Province of Ontario has a population like New York, when her franchises have become valuable as a general thing, it will be time then to think of adopting such principles as they do. What is just in New York City would be utterly unjust and unpolitic, from a public point of view, in this Province. New York has a teeming population, it is enormous; and taking for example the Metropolitan Railway Company in New York, an enormously valuable concern, and throughout the City of New York the generality of railway companies pay—the generality of corporations for transmission and transportation make money. So that in legislating for the majority it may be just and proper to adopt a different class of assessment in a country of that kind than you would in a country where the generality are the other way around. We need in this country to encourage, by exempting them as far as we can, people to invest money in public enterprises. It is not by getting up a hue and cry against them as bloated monopolists and grinding corporations that we are going to develop this country. In reading an article by Mr. Ford, justifying his celebrated Ford Bill, he says the corridors of the Parliament Buildings resounded with the protests of eminent counsel who came there to protest against these taxes being imposed upon the corporations, but nobody came for the poor man that owns the house. We find that in New York City, for example, the householder is only taxed on about fifty per cent. of the admitted value of his property; in the City of Chicago the assessment is upon twenty per cent. of the value of the property—

The CHAIRMAN: Is that so by law?

Mr. MACKELCAN: By practice.

Mr. STAUNTON: I think it is by law.

Mr. MACMURCHY: Practice.

Mr. STAUNTON: I understand that was by law; I understood that was the law of assessment. I was asking him about the law, but whether it is the law or not, I am not prepared to tell you; but it is the recognized and accepted practice at all events. So far is it the practice that the banks in New York have taken a case to the Supreme Court because they say, "It is acknowledged and admitted that the taxation of the individual property-holder's property is based upon thirty or forty per cent., and yet they put a tax upon us of one hundred per cent. of its value;" therefore they say it is unconstitutional and improper and unauthorized. They have taken a case to the Supreme Court; I have the brief in which they set out the arguments and show these facts. It is very fine for gentlemen who have got a popular cry to say for the poor man that is not done, when in fact he knows it is done. Another thing, they exploit these companies, as he admits in his article, for the benefit of the politicians; and New York has to keep great stables of horses for the benefit of gentlemen in England, and to maintain large places like Tammany Hall, and of course the corporations have to pay. But we have not to do these things in this country, and we should not adopt their methods unless we have their necessities. I have very little more to say, but I want to say that my own ideas about gross earnings was that gross earnings were what you received in the Province from the exercise of your business; but we are not defending it, we are not undertaking to defend it; although we want it to be, as I understand Mr. Robinson and those who are with him in this, limited to what are receipts from our calling or our business. For example, I do not think it would be fair to say that if the Street Railway Company had to take up four or five miles of their iron rails, which is in reality capital investment, and substitute new rails, that that should be taken in as gross earnings, because that is not from the exercise of their calling, but it is necessary in making repairs. That would be capital investment. Our idea is that capital investment should be excluded, but only that. As to the question, if a corporation had a perpetual franchise, and a corporation that has only got a limited franchise———.

The CHAIRMAN: You would make renewals with new capital, that would be one thing; but if you made renewals with what you had earned?

Mr. STAUNTON: As Mr. Robinson put that, it would be easier to take all that we earned; for instance, I invest $100,000 in a street railway, that is my capital; if I afterwards find out that I have to take up part of that and sell it to the extent of $100,000, that should not be taxed if you tax me on my gross earnings, because I would simply be turning my capital over and putting it back where I got it again; but whatever we take in, whatever we acquire in the exercise of our calling, that I should think is gross earnings.

The CHAIRMAN: No matter what you do with it?

Mr. STAUNTON: Yes, no matter what you do with it, it does not matter in the least. The only place where I think the gross earnings would have to be limited to what was received in the Province would be for example, as a transmission or transportation—I might receive a package or a message in the City of Toronto to carry to New Orleans and it may be the rule of the companies across the line that I must receive prepayment for that; now, the money that I receive for the persons for whom I am agent should evidently not be included in our gross earnings, manifestly should not be; but the money I receive for my own business and for myself should be.

Mr. JUSTICE MACMAHON: If you telegraph to New York by the Great North Western Company's line, and you notify your correspondent that the answer is prepaid here, then the proportion that ought to be taxed here would be, if the message was a dollar, according to the distance, about twenty-five cents.

Mr. STAUNTON: I would not put myself on that basis. I would say, what do you get out of it? If you are carrying that message over your wires and the wires of another company across there, I would make them show the proportion they sent to them and I would not tax beyond what was kept here. I would make them pay for what they kept. But I would not tax them for what they collect as agents; that is all. Mr. Baker tells me these things are always divided and appear in the company's business. Then there is another very serious matter, that in the taxation of a corporation like ours has not been adverted to and that is, this——

The CHAIRMAN: Referring to the Bell Telephone Company?

Mr. STAUNTON: Yes; or this would apply to any other company which does a long-distance business throughout the Province. We are assessed in every city, town, village and township in this country, and we have to fight that assessment right along that line, and if we are over assessed we have to send expert witnesses over the whole Province; so that it pays us better, if you look at it in that point of view, to put up with a most absurd imposition rather than to seek our rights. If we appeal to the county judges we have to pay our own expenses. In classes of business of this kind we have to bring in, as we brought in in the contest with the City of Toronto, the most expensive experts and the best experts in the United States; we had to do it. This all costs a lot of money. And if we are to be assessed through every township, every village and every county, it means the keeping up of a staff of lawyers and experts year after year to go there, because I can tell you there is no unanimity among the assessors as to values. So that I can say no matter what this Commission can arrive at it is only just and proper that the assessment, whatever it should be, should be made by a central board, and that we should have a right to appeal from that board at least once—I do not think we should have a right to appeal forever, but I think we should have one appeal from that board.

Mr. JUSTICE MACMAHON: To settle the law?

Mr. STAUNTON: You cannot do that. Mr. Justice Ferguson says, "You will be dead and buried many times before you settle the law."

Mr. BUTLER: To whom would you appeal?

Mr. STAUNTON. To one of the courts. We should have a clear right of appeal provided for to any court—the Court of Appeal is the proper court—because these interests are enormous interests. The greatest difficulties the people of this country have to deal with are the assessment laws. At present, even though you have $100,000 worth of property improperly assessed, you have no power to appeal at all. I think we should have one appeal, but I do not think we should have more in a matter of this kind; and I think that the person who, as a result of the appeal, is found to be wrong should pay the

expenses, just as other litigants and people of that kind do. It will be said no doubt that some of these corporations in some places may escape taxation which would otherwise be imposed upon them Of course my argument, and that of all of us, is this, that we are here to be assessed equally, and you cannot make a law for one city, or one town, or one village. Throughout this whole Province, as far as I am aware, outside of the cities, there is no assessment on personal property at all; in fact all the farming community, all the people outside, escape taxation on all their personalty; on the other hand, if we run a line of poles across twenty farms and they are assessed at the scrap-iron value, or a line of railway is run across twenty farms and similarly assessed, considering the exemptions of the people on each side of it, and considering it all round, that company, even on the scrap-iron basis, is not escaping its fair proportion of its taxation of that particular county. I believe that it is in the best interests of everybody, of the municipalities, of the companies, and of the people who intend to invest money in such enterprises, that they should know definitely and absolutely not only what they will be taxed but what they should be taxed upon, there should be only one system in this Province; there should be only one form of taxation, whenever it is practicable. The dividing of a man's property under half a dozen different heads for taxation is naturally absurd unless it is necessary. Now, if under "gross earnings" or "gross receipts" a system could be worked out it would be better, in my judgment and in the judgment of all of those with whom I am associated, that not only for us but for them it should be adopted.

Mr. G. F. Hellmuth, Q.C.: Mr. Chairman and Gentlemen,—There are some of the companies and classes of corporations that have been referred to by my learned friend, Mr. Robinson, in regard to which I would like to say a few words. Their position is somewhat peculiar in some cases, and their position in other cases has been somewhat misrepresented—I do not say intentionally at all—before this Board. One of the first of these classes of corporations whose position is peculiar is the natural gas companies. The natural gas companies stand in a different position from perhaps any other corporation; and while they are willing to fall into line, following the suggestion that Mr. Robinson has made, yet they think that the Commission should take into consideration the peculiar features of their position. In the first place at present they may pay a tax first of all to the municipality of the same character as other corporations, what is known as the scrap iron basis, on their pipes and mains: but in addition to that they pay an annual tax ito the Provincial Government of $1,500 as a natural gas-producing power; and then, in addition to that they pay taxes to the Provincial Government of one per cent. on there annual gross earnings; so that they are at the present time, one might say, almost exhaustively taxed in comparison with other corporations. If any such system as Mr. Robinson has outlined is brought into force, or is approved of by the Board, there ought to be some deduction, at least one would think in fairness, from the tax upon gross earnings, that is to say, if they have to pay a tax upon sixty per cent. of their gross earnings to the municipality some proportion at least of the one per cent. on their gross earnings which they now pay to the Provincial Govérnment should be deducted from that, or they should be allowed something upon it. And it ought perhaps also to be considered that the life of these companies is of a peculiarly short duration in many cases; the instant that the natural gas gives out their business is entirely gone; their pipes are not worth even what one might say is scrap value, they are not probably removed in many cases, but they simply rot in the ground; they are of value to no one. They might fairly—

Mr. Justice MacMahon: I suppose they are in the same position as all companies are to a certain extent?

Mr. Hellmuth: Yes, very much so.

Mr. Justice MacMahon: Very much in the same category.

Mr. Hellmuth: It would certainly not pay them, it would not be a sensible business transaction, to remove the piping if the gas gave out.

Mr Justice MacMahon: No, it would not pay to take them out.

Mr. Hellmuth: The actual taking out would not pay them. On the scrap basis it is assumed the removal will pay and something will be left over. Then, we hear that on the scrap basis the Toronto Railway was valued at $900 a mile, showing that after removal there was a considerable value. It was spoken of as a mere song, but $900 a mile, if I remember right, was the value on the evidence taken before this Commission on the Toronto Railway. These companies have no value on their pipes after the termina-

tion of the franchise. In regard to the London Street Railway, it was placed before this Commission, that the London Street Railway occupied a peculiarly favourable position among street railway companies in that it paid no mileage and no percentage to the City of London ; and my learned friend, Mr. MacKelcan, said in regard to that matter—I assume taking his data from Mr. Grant, the Assessment Commissioner of London—that in London they are in a different position from what they are at Hamilton, they get no revenue at all from the Street Railway I understand, and Mr. Grant, when he came here before this Commission said that there was neither mileage or percentage, although he admitted that there were cheap fares. I do not think it would be possible that a more misleading statement could have been made—I do not say at all intentionally, because I know Mr. Grant and I should be very sorry to charge him with anything of that kind intentionally—but perhaps there is no company at all that pays more or has paid more in proportion to what it gets than the London Street Railway. In the first place they do pay, although not in dollars, a mileage. In Toronto the bargain was made with Toronto that the corporation of the City of Toronto should put down and pave the streets between the rails and eighteen inches outside—I can be corrected if I am wrong, it may be two feet outside—and that for the City doing that the Toronto Railway should pay the mileage, I think it it $800 a mile. Mr. Fleming would know that.

Mr. R. J. Fleming : $800 a single mile.

Mr. Hellmuth : In London the London Street Railway undertook to do the paving between the tracks and eighten inches outside, and of course they do not pay a mileage for what they do themselves ; instead of the City of London doing it and the London Street Railway paying them a mileage for doing it the London Street Railway, under their contract with the city, have to do all the paving between the tracks and eighteen inches outside of the tracks whether double or single ; in other words they pave some seventeen or eighteen feet of the public streets because they only use the portion on which their rails are, and they are paying as large in that respect, or a larger percentage than Toronto gets. I understand it is contended here that the $600 a mile of single track that the Company pays does not pay the Corporation for the work they have to do upon it. Then it is said they pay no percentage, but it is admitted they give cheap fares. Now, let us see what that means. When London came to make this bargain with its street railway company it said, and perhaps not unreasonably, instead of the city in its corporate capacity getting this percentage the citizens would prefer to get it directly by being enabled to ride cheaper. As a matter of fact there is no street railway in the Dominion of Canada, and as far as I know in the United States, that gives such cheap rates as the London Street Railway Company As a matter of bargain they give seven tickets for a quarter in the ordinary times, where Toronto gives six ; and they give ten tickets for a quarter of a dollar in the workingmen's hours where Toronto gives nine—

Mr. Kingsmill : Eight.

Mr. Hellmuth : And they do that in a city of forty thousand people, while they have much higher fares in a city of two hundred thousand. It must be admitted in that respect they are paying an enormous percentage Figure it for a moment, and take the gross receipts of the London Street Railway at 120 or 130 thousand dollars, and they are paying fifteen or twenty thousand dollars a year of that amount in these cheaper fares, that is to say, their receipts would be that much more. I think it is manifest that the London Street Railway do not occupy a particularly favourable position in that respect, but that they are paying all and really more than other street railways, many that could be named, although I do not wish to make any invidious comparisons, when they do their own paving and give these cheap fares. Mr. Grant said it was admitted in London that $7,500 a mile would be a fair way of valuing the property of the London Street Railway if it was not for the scrap value. Now, I take issue with Mr. Grant upon that. I appeared for the London Street Railway Company upon all their appeals, and this much was admitted, that the London Street Railway had cost to build, including the grading of the streets and including an immense amount of work upon the streets in macadamizing and stone, that $7,500, and was built at a time when it was more expensive to build than it is to-day ; but when we find that the Assessment Commissioner of Toronto is perfectly content with $6,300 a mile from the Toronto Railway Company it is rather absurd to have the Commissioner from London saying that the London Street Railway, which we do not pretend is a better built or more thoroughly equipped road

than the Toronto Railway, should pay $7,500 a mile. I wish to correct what seems to be manifest errors in that respect, so far as that particular company was concerned. I would like to say one word or two, with the Commission's permission, in regard to the question of franchise. I notice that in the evidence and remarks already made before the Commission, that the gentlemen who are representing the Municipal position disclaim any desire to tax the franchise. Mr. MacKelcan has said that that is not the intention of the municipalities, they do not ask for that. He says, "I am not asking for the privilege of taxing the franchise, the question has never been considered, but simply the property." Then Mr. Hutton in dealing with the matter also takes the same position. I would like to give his own words, because I do not wish to misrepresent in any way what he did say. He says, "I have been an advocate all along of no distinction between the individual and the corporation. Because the corporation is enabled to acquire large profits upon the streets for which of course they pay, but not for the property, but for the privilege of the franchise. I think they should be assessed the same as any other individual at the value of that property." Then again in speaking of the matter he says, "I think, as I said in the first place, that there should be no distinction between the assessment of the land of these companies or any other company for that matter, and the land of the individual. A man pays on his house and land all it is worth; and I think a fair way of arriving at the valuation of these companies would not be by assessing the franchise, because they have paid for that; that is what I take it they pay for when they pay the city this $800 per mile, which is about what it comes to, taking the mileage and percentage together; they pay for the right to operate and for this exclusive franchise." Mr. MacKelcan again, when he came to deal with the matter spoke in the same way repudiating any idea of taxing the franchise. Mr. MacKelcan says, "But we have not asked"—

The CHAIRMAN: I think we have a distinct recollection of that.

Mr. HELLMUTH: Mr. Fullerton takes the same position.

Mr. FULLERTON: No.

Mr. HELLMUTH: I thought he did. Perhaps I am mistaken, it is quite possible. Mr. Fullerton says, "The view that the Assessment Commissioner has taken, and that I am urging in regard to these companies, is that at present we should not ask to tax them on the franchise, but to ask tax them just as the rest are taxed, on their whole property, real and personal; that there is no reasonable ground for their being exempt more than others." Perhaps I can find a little more; again he says, "However, we are not asking the location of the franchise at present." I am only dealing with the present; I am not saying what Mr. Fullerton or any one else will do in the future, but I may say, so far as the present is concerned, these gentlemen have not come here asking to tax the franchise; there is a very good reason why the franchise of these street railways should not be taxed. I know that in saying that I am perhaps running up against something that Mr. Cooley has said, but it struck me that the fallacy, when one came to consider the facts, is clearly shown. Mr. Cooley, on page 34, does talk about the taxation of corporate franchises. He says, "These have been a source of large revenue in some states, while others have only placed corporations on the same footing with individuals and taxed them on their property, or imposed some specific tax intended as an equivalent for a property tax. A tax on a corporate franchise may or may not be just or politic; if the business is one of which corporations have a monopoly, a tax on their franchise, however heavy, would not be burdensome, because the result would only add to the cost of whatever the corporation supplied to the public, so that the tax would really be paid by the community at large." Surely absolutely false so far as an electric street railway is concerned, obliged to supply the public with tickets at a fixed price, that cannot add one dollar to their charge to the public for anything they supply, and if the reason why Cooley gives that that is a proper and fair basis is the only reason, the fairness I submit falls entirely to the ground. One must remember that in the case of these various corporations, particularly corporations in the position of electric street railways, they get power from the Provincial House and they then go to a municipality and they make terms with that municipality, and with that municipality, the taxing municipality, they agree to give to its citizens certain rights, which agreement they cannot alter at any time, and it is exceptionally unfair that that particular corporation should have its franchise taxed; it has paid and is paying to the taxing power the

fair value for, or the supposedly fair value for, what it has got, and it is not fair that it should be taxed again.

The CHAIRMAN: At all?

Mr. HELLMUTH: At all, on the franchise.

The CHAIRMAN: Or anything?

Mr. HELLMUTH: It should be taxed on its gross earnings. I admit it should be taxed on what it is making; that is the fair way to look at it. What is it making out of that community? Upon what it is making it should pay, but it should not pay for an intangible something; if it should pay for the franchise why should not one pay for patent rights, or good will, or anything else? A man may be able to do a large business by his good will or his patent right, but you do not tax the intangible good will or the patent right.

The CHAIRMAN: Suppose another company were formed and bought that company out, what they were willing to pay would be a fair sum to tax them on?

Mr. HELLMUTH: It might be under certain circumstances, and again it might not.

The CHAIRMAN: Under what circumstances would it not be?

Mr. HELLMUTH: I can conceive that where a company was purely speculative and another company said, "We would like to buy that railway out, because we have information this town is going to double or treble its population." The present company might not want to speculate on that.

The CHAIRMAN: They were willing to pay you a sum.

Mr. HELLMUTH: Yes; as a man might come and say, "I want your house—"

The CHAIRMAN: If you are going to buy a piece of land that is a consideration that is fair to be taken.

Mr. HELLMUTH: Not always, I submit; for instance, somebody particularly fancies your house and is willing to give a good deal more than you paid for it; he expects property in that neighbourhood is going to raise very much and he offered you considerably more. You would object to being assessed on that.

The CHAIRMAN: It is a method of arriving at the value.

Mr. HELLMUTH: It is a method.

Mr. JUSTICE MACMAHON: It is a piece of evidence.

Mr. HELLMUTH: A piece of evidence. It is a method of arriving at the value, but you could hardly use that method for assessment.

The CHAIRMAN: The purchaser is not usually willing to give more than he can get it for.

Mr. HELLMUTH; I was thinking more of a business. Supposing some one came along and said they would to buy the business of the Eaton store—

The CHAIRMAN: And its land

Mr. HELLMUTH: I was going to take the Eaton property. Taking it that they were making so much a year—I have not the least idea what they are making, therefore it is perfectly fair for me to take the illustration—and some person stated, "That company has a magnificent good will and I would like to buy it"; we should then find it absolutely impossible to tax them in Toronto at what somebody was willing to buy it at, because it would shock everybody.

The CHAIRMAN: To pay for their real estate—

Mr. HELLMUTH: I do not mean to pay them for their real estate, but as a going concern

The CHAIRMAN: Your company is possessed of real estate.

MR HELLMUTH: Nobody would pay very much for our real estate, or any railway company's real estate unless they could also get the franchise.

The CHAIRMAN: Suppose they could get just what you have, wouldn't it be fair to assess it at what you could get?

Mr. HELLMUTH: I do not think it would be fair in view of other taxation and the way other businesses are assessed. I think it might be quite fair if you would tax everything on that basis, that is to say, if you would take the business of the large and small store and tax it for what the tangible good will is worth to say somebody, who, getting that particular stand, could make out of it or would give for it.

The CHAIRMAN: A man has to pay a rent in proportion because of its situation.

Mr. HELLMUTH: But in many cases a man is paying for the business that has been built up there, for the reputation.

The CHAIRMAN: For another business

Mr. HELLMUTH: Then he does not give the same; no man would.

The CHAIRMAN: Corner lot buildings might pay well for another business altogether.

Mr. HELLMUTH: Yes, for a corner lot. I was thinking of such business as departmental stores if bought for anything else they would not be worth the same

The CHAIRMAN: Wouldn't you apply the principle of the corner lot? Wouldn't it be fair?

Mr. HELLMUTH: I do not think it would be fair. I do not think it would work out fairly with other companies: I do not think we would be paying on the same basis as others I do not think it would be a fair basis. It would be a fair basis if all other property were assessed in the same way

The CHAIRMAN: And they are.

Mr. HELLMUTH: I am not aware of that. Some real estate may be, but not the intangible something, not the right to do business, not the right to run.

Mr. JUSTICE MACMAHON: Has the City of London power to become owners?

Mr. HELLMUTH: Yes; without taking into consideration the franchise at all

The CHAIRMAN: People dealing with you would have to regard that; they would have to get the franchise from the city first.

Mr. HELLMUTH: Yes; we could not transfer our franchise. We could not sell ourselves out. We can sell our stock, but we could not sell our company out. They have made the bargain with us, and we have to run that railway under certain terms and conditions for a certain number of years. At the end of that time the municipal corporation can acquire our property, and in acquiring our property it is expressly stated that neither the earning power of the concern nor the franchise or anything else except the actual and tangible value of the property are to be taken into consideration Now, we ask that they should not tax anything more than the actual and tangible property.

The CHAIRMAN: You do not take the franchise?

Mr. HELLMUTH: If you do not take the franchise into consideration it must be of less value than your Lordship suggested, because they come and buy the franchise.

The CHAIRMAN: They get the franchise elsewhere.

Mr. HELLMUTH: I do not think we could sell it unless we could guarantee to give them the franchise.

The CHAIRMAN: They would buy you on the same terms the city would buy you out?

Mr. HELLMUTH: I could not raise an objection to that value at all if that is the basis of taxation. Of course I infinitely prefer the method suggested by Mr Robinson, which I think is fairer to all; and I may say in that connection that that would certainly be one that in the smaller municipalities outside of Toronto would mean considerable increase of taxation—I have not figured out how much it would be, but it would mean considerable increased taxation upon the present rate of taxation. I would like to add a word or two to the suggestion made by the gentlemen who represented the municipal bodies; they say they want nothing more than that the Act should be amended so that instead of reading as it does now in Section 28, "That real and personal property shall be estimated upon actual cash value as they would be appraised in payment of a just debt from a solvent debtor", that it should be "At their fair value." Well, I do not think that any company or corporation could come before this board and say they do not want to be assessed at their fair value, but I do think that it is fairly justifiable and reasonable that corporations should not have such words put in, because who is going to determine what is the fair value? It would lead to interminable litigation if the words were left in that way. "Fair value" may mean anything; it may mean value with franchise, it may mean value without franchise; it may mean the value to the owner, or it may mean the value to the purchaser; and it may mean the value to the assessor. Who is going to determine what "fair value" is? If the existing law is disturbed, and I quite agree with what has been said that although it may be a clumsy and unscientific method, the present scrap law is not an unjust method, because it does not mean that the corporations bear less than their proportion of the taxes, but if it is to be disturbed I submit that it may be in the interests of fair play and justice to the public and the corporations

that the Commission ought to substitute some other scientific method, such as gross earnings, or percentage of gross earnings, or whatever it may be, and not leave it with certain words taken out of the Act so that we will be all at sea until we have had numberless decisions to settle what "fair value" means. If such words are to be inserted, is that treating the corporation the same as the individual? Now, I understand that these gentlemen who represent the municipal associations disclaim any idea of wanting to treat the corporations any worse than the individual, though they are willing that the words should remain, so far as the individual is concerned——

Mr. MacKelcan: No, oh no.

Mr. Hellmuth: Then if the words are to be taken away so far as the individual is concerned perhaps they will define what "fair value" means. It just struck me that scrap value is seen in the City of Toronto in regard to houses, or might be seen; somebody said you wouldn't value a house brick by brick; but you value a street railway, or one of these gas companies pipe by pipe or rail by rail. If a man like Vanderbilt were to put up a million or a million and a half dollar house here, would the assessor dare to assess it for more than it would bring, say $100,000? And suppose a man brought an artist from Italy to paint pictures costing $100,000 in his room, would anybody assess them at that? They would not fetch that. The basis of assessment is, what it will bring; and if that is the basis it is the basis upon which all property, less franchise, has been valued in the past. I submit respectfully to this Commission that if the present method of taxation is to be interfered with it should be with some well thought out and definitely defined substitute, and not left to gather from subsequent legal decisions what the postion really is.

Mr. Justice MacMahon: It is a very unfortunate phrase in that section; something will have to be substituted for it

Mr. John Bell, Q.C., representing the Grand Trunk Railway Company of Canada, made the following statement to the Commission:

Your Lordships and Members of the Commission.

The accompanying memorandum (*a*) sets forth correctly the Municipalities in Ontario in which property of the Grand Trunk Railway Company is assessed, the amount of assessment, and the amount paid in taxes thereon. It will be seen from this statement that the Company at present annually pay in Municipal taxes in this Province the sum of $120,359.74. With reference to local improvements, drainage schemes, etc., I may say that almost invariably and without appeal the Company contribute towards such undertakings more than their fair proportions based on the benefits received therefrom. The amount of school taxes annually collected from the Company is also greatly in excess of any direct benefit received. Beside these Municipal taxes the Company annually contribute enormous sums towards the maintenance of government. At present they are building all their engines in this country. They also build their own cars and fit them up. Many of the articles required in the construction of their engines and cars cannot be obtained in Canada and large sums have to be paid in duties on those imported. As you are all well aware too a vast amount of money is being expended in improvements to the roadbed and in the replacing of old bridges by steel bridges suitable to carry the heaviest traffic. While a portion of the steel bridge work is purchased from manufacturers in Canada, the greater amount has to be procured from the United States and duty paid on its importation. Take also the item of coal. The Company are obliged to import from the United States the greater portion of the bituminous coal used in the running of their trains and in manufacturing the various articles continually being required in connection with the working of their railway. The duty paid by the Company on coal alone imported from the United States for the past year (1899) amounted to $421,391.14 and this is about the average for each year. But this is not all. Under the Revenue Act of 1899 passed by the Ontario Legislature, the Grand Trunk Railway Company pay an annual tax of $5 on every mile of their railway from terminus to terminus in Ontario used or operated by the Company. We contribute annually to the Provincial Exchequer under this Act $13,193.15. Taking all these things into consideration, I submit that the Grand Trunk Railway Company at least (and I am speaking for them) are bearing their fair share of taxation. They do not complain of the amount of taxes levied upon them

(*a*) No. 23 in appendix A.

but are willing that matters should continue as they are, and submit that the already heavy burden should not be further increased. The law regulating the Assessment of the property of Railway Companies is now practically what was passed in 16 Victoria and interpreted by the Courts in 1857. It is thoroughly well understood by the Municipal authorities throughout the Province, and is I say without hesitation more fair, equitable and practicable than any I have heard suggested in its stead. Of the four hundred municipalities in this Province, towards whose revenues the Grand Trunk Railway Company contribute annually in taxes, I ask if one single one, rural or urban, has petitioned for any change in the law regarding the assessment of the property of the Steam Railway Companies. I have not heard of one. I take it that the object of this Commission is to suggest improvements upon the present law where in its working it has been found to be impracticable or unjust. This is not in any one particular the case with regard to the Steam Railways. In addition to the fact that partically the same law has as I have stated been in force in this Province for nearly fifty years, and no change is now asked, I call your attention to the fact that it was re-enacted by the Legislature less than two years ago. I quote Section 11 of the Revenue Act, 62 Victoria, (2) 1899, Chap 8

"11. The assessment and taxation of Railway Companies shall continue to be made under and in accordance with Section 31 of the Assessment Act and railways shall not be liable to municipal assessment or taxation of the tracks and roadways upon or along any street or highway."

Thus not only has the present law as interpreted by the Courts the warrant of fifty years' satisfactory test to justify its continuance, there is no agitation from any portion of this Province for a change in it, but as recently as April 1899, or less than two years ago, it received the sanction of and was reaffirmed in its entirety by the present Legislature, the last elected by the people of this Province. To my mind this should dispose of any suggestions for its amendment at the present time. I need not remind you of the important part which the steam railways have taken in the development of the wealth of the Country, or the extent to which they have contributed to the improvement in values and to the general prosperty. Without them we would not have the numerous industries now existing in this Province nor many of the benefits and advantages at present enjoyed. It may be said that bonuses were granted to them but that fact itself is proof that their construction was a great public benefit and for the general advantage of the Country. One word more. Whatever may be the fact with regard to other industries the profits in the capital invested in the Grand Trunk Railway Company have given a very slim return to those whose faith in the future of the country induced them to invest. Would it not be unfair and inequitable to empower the municipalities who have already greatly benefited by the construction of these railways, to impose additional taxation upon them, and thus not alone decrease the already small return obtained, but most prejudicially affect the market value of these securities? Those, who, in expectation that a law so long in force and apparently so unobjectionable would not be hastily amended to their prejudice, have invested in their securities, have I respectfully submit vested rights which should not and I believe will not be lightly or without the most substantial reasons disturbed. For these and many other equally good reasons I confidently ask the members of this Board that in their report to the Government they recommend that there be no change made in the present law regarding the assessment, for municipal purposes, of the property, in this Province, of the Company I represent, at least in the direction of increasing the amount of taxation to be paid by them.

THE CHAIRMAN: The Grand Trunk Railway simply ask to be let alone.

Mr BELL: Yes.

At 1 o'clock the Commission adjourned till 1.30 p m.

1.30 o'clock p m., resumed.

Mr. HENRY O'BRIEN, Q.C: Mr. Chairman and Gentlemen, the points I had intended to speak on were touched on largely by Mr Robinson and others who preceded. I appear specially for the Toronto Electric Light Company; we have no franchise from the city, nor I suppose has any company which is in a position to be competed with by other companies. We are really a trading corporation, I presume, more than anything else, manufacturing and selling light and power, and using the streets as a medium of transmission by poles and wires instead of waggons; we therefore have nothing in the shape

of a franchise. I gather from what I have heard to-day that it seems to be the general opinion that franchise should not be taxed. In addition to that, all companies like ours which has a contract with the city for a short time—the contract is ephemeral so that at the end of a few years we really are without any interest in the city any more than any other company doing business there, and all the material and plant which would be used exclusively in that becomes at the end of the contract, if the contract is not renewed, practically what is called scrap iron, so that the remarks that Mr. Robinson made in reference to that matter are entirely applicable to electric light companies dealing as ours does with the city. I need not take up your time in amplifying that because Mr. Robinson made that point very clear.

The CHAIRMAN: The contract you speak of is a contract with the city to supply lights for the streets?

Mr. O'BRIEN: Yes; and it is a five year contract. The city declined to make it a ten year contract as we suggested; they thought it better in the interests of the city, as possibly it was, to make it a five year contract.

The CHAIRMAN: You use the same poles and wires, I suppose, for supplying light to private persons?

Mr. O'BRIEN: Yes, or nearly so. Of course there are poles which we use for private business, which are not used for city lighting.

The CHAIRMAN: And the right to erect these poles you derived from the city?

Mr. O'BRIEN: Yes.

The CHAIRMAN: By contract?

Mr. O'BRIEN: Yes, by contract. I do not know exactly how that stands, and I do not know that that would affect the question of taxation at all. Then, another point I would like to speak on for one moment is this—Mr. Staunton I think referred to it shortly—it is not true that the law recognizes equal assessments; it is quite evident that differences must be made, and differences are made in the present law and in the working out of the present law; for instance, all incomes under $700 are exempt; it is true that that exemption applies in a sense to all incomes, but there is the fact that on principle an income of $700 is exempt as income to that amount. Then, by the law as it stands and as it has stood for a long time, banks are exempt from all taxes on personalty. The clause of the Act to which I refer is now numbered Clause 39 and reads as follows: "The personal property of an incorporated company, other than the companies men-"tioned in sub-section 2 of this section, shall be assessed against the company in the "same manner as if the company were an unincorporated company or partnership.

(2) The personal property of a bank or of a company which invests the whole or the "principal part of its means in gas works, water works, plank or gravel roads, railway "and tramroads, harbours, or other works requiring the investment of the whole or "principal part of its means in real estate, shall, as hitherto, be exempt from assessment." All these were exempt and therefore there was a difference made, and I apprehend that there must always be a difference made. Why should banks be exempt? Possibly it is the policy of the law to do it, and it may be a very proper thing to do. Companies owning most of their property in real estate are exempt; very probably that is a good thing to do; for instance, our company, until the decision which said that poles and wires were real estate was assessed for everything, which I always consider was a very unfair matter: we were assessed for our personalty; we were assessed for our realty, simply because we were not a bank and we did not have the most of our capital in real estate—it turned out afterwards by the decision that we had most of it in real estate owing to the holding of the courts in that respect. Then, another point I submit is that it is quite necessary to protect companies as investors of money against ignorant assessors for one thing. There are a great many ignorant assessors—of course they can be put right, but that is an expensive and troublesome job, and we do not always succeed in doing it. I think public companies of this character, companies investing large sums of money, supposed to be invested by wealthy men but largely invested however by the public, the widows, the orphans and everybody else. They are subject to popular clamour, and there are crusades made against them, as we have seen, as we saw in connection with the recent assessment in the City of Toronto. Without reflecting at all upon the assessors or the Assessment Department there is no doubt that there was a regular crusade made against all the companies, and they said the companies must bear their proper pro-

portion; and their proper proportion was then endeavoured to be arrived at by an enormous assessment, so enormous that when we came to discuss it before the County Judge, and really got into it, it was found that the assessment was exceedingly in excess of what was reasonable or what could possibly be supported. We therefore, like sensible men perhaps, came together and said, "We want to pay what is reasonable, we want to pay what is fair," and my learned friend on the other side of the table (Mr. Fullerton) said, "We do not want to assess you unduly, and you have been assessed unduly; now, let us get at the figures," and we got at them. Is that not right, Mr. Fullerton?

Mr. FULLERTON: In the case of Mr. O'Brien's Company I will say this, there was not so much to complain of because we did get at what we thought was a fairly reasonable assessment in the Electric Light case, but that would not apply to companies generally; you did not attempt to enforce the scrap iron basis.

Mr. O'BRIEN: It was not reduced because of the scrap iron basis, but it was reduced because it was reasonable. But at the same time companies are more or less at the mercy of assessment commissioners, assessors and others holding municipal offices who hold their power from a popular vote; and therefore companies have to be protected by the Legislature. That is the point I make, and the only point I make; for instance, the Metropolitan Railway in New York was assessed not long ago at eighteen millions, but that assessment was reduced a short time ago to nine millions—just as an illustration of what I am speaking about. Another point, the companies are not all making money—some few companies are, very few, perhaps you could count them on your fingers in this Province who are making money; but I suppose that more or less, speaking generally an assessment law must be uniform in character so that some companies, as has been admitted by Mr. Robinson, acting for these other companies, will get off with perhaps less than they ought to pay, and some companies will necessarily have to pay a little more. I suppose that is one of the things that really cannot be helped; and therefore I would submit that the law should endeavour as far as possible to steer a middle course so as to make a reasonable assessment which as far as possible would be fair to all classes; and it was in that view, as I understand it, that the suggestion was made which I considered quite a reasonable one, and so far as our companies are concerned would be proper and should be carried out. This assessment of gross receipts, or rather a percentage of gross receipts in the manner set out by Mr. Robinson, I think, is steering what might be called a middle course, and about the only one that can really be carried on satisfactorily. Then, in reference to what Mr. Hellmuth referred to as this scrap iron decision, which he spoke of, and which Mr. Robinson said he did not see how he could support exactly in the way it works out and its method of application, I think there is a great deal of justice at the foundation of that. I will not trouble the Commission with the arguments on that; they are quite familiar to you, and it is only taking up time for nothing; I think there is a foundation in justice in that. You cannot separate the franchise from the material with which they exercise that franchise; and there is constant difficulty in that which cannot very well be got over except on some such system as what is called the scrap iron basis; and I think that the companies ought to be protected in connection with that. If the Legislature in its wisdom thinks it is desirable to do away with that, or to abrogate that or destroy that decision or the effect of that decision there should be some substitute, some way of arriving at the reasonable part of the scrap iron decision. There is one other matter—I do not know whether I shall be laughed out of court, but I think it is important, and I think on principle it is right. I have not heard it mentioned here, but I do mention it because of having been for a long time interested in electric light companies, having been one of the original promoters of electric lighting in this city, and having invested some money in it at that time with others. We went into it as an experiment; we did not do it for the public benefit, of course, but we did it as a matter of business; we thought we might make some money out of it, and we might lose a great deal; but it was experimental in its character. It did happen to succeed; it might have failed as many others have. But I think if it were possible—I simply throw out the suggestion—there ought to be some provision made by which experimental ventures should have a measure of exemption. I remember in the old times that as a matter of fact we paid large sums of money for patents and for machinery, all of which turned out to be perfectly useless and had to be thrown away; it was money lost. We were assessable, not for the patents, but for the machinery, and the experiments made

and the material used in them. We were assessed for them, but they were useless; and there is not a year goes by but what we have to throw into the scrap iron pile what has cost the company large sums of money because we find better ways of doing business, or we find some experiment we have tried and put money into has not succeeded, and the money has been lost. But still it was a matter which was assessable, not as personal property at present, but which was assessable before that decision and is now assessable so far as it comes within the term of realty; so that if it can be done I would submit there ought to be some provision of the law to protect those parties who are putting their money into those sorts of things.

The CHAIRMAN: Have you thought how you would express that?

Mr. O'BRIEN: I have not really thought of that. I think, if I may be allowed, I would like to work out something to see if it is possible to put something of that sort in.

Mr. WILKIE: It would be rather hard on existing enterprises that a rival should be bonused by exemption. You would not like to exempt a new electric light company in opposition to the present one.

Mr. O'BRIEN: No, but I would exempt to some extent the present as well as the future ones. Business that is experimental in its character is what I mean—there should be some concessions to them by the Legislature. As regards companies being paying companies or otherwise, as I said a little while ago, a great many companies do not pay. I have in my hand here a memorandum received—

The CHAIRMAN: Could not the municipalities under their present powers exempt a company of that kind being projected?

Mr. O'BRIEN: I do not think so.

The CHAIRMAN: Supposing they said to the municipality: "We are going to try this and we would like to have an exemption from taxes for two or three or four years," couldn't the municipality do that?

Mr. O'BRIEN: They might, but that hardly meets with the case, because companies dealing with a subject like electricity which is largely an unknown quantity, is experimental all the time, experimental from time to time, not merely in its inception, but we really know very little about electricity; it is one of the great forces of nature but we know nothing about it, and there is a constant series of experiments going on for the benefit of the world at large in connection with companies of that character. I have in my hand a memorandum of the number of companies which have failed—some few have succeeded, but I am told this is a correct state of things so far as companies are concerned at large, speaking of the bulk of them. It is said that the Belleville Street Railway failed and was offered for sale by the sheriff, but no one would bid on it—the Brantford Street Railway was sold by the sheriff at $200,000 less than it cost and has a deficiency of about $6,000 per annum—the Vancouver (B.C.) Electric Railway was also sold by the sheriff—the New Westminster and Vancouver Railway was sold by the sheriff—the Peterborough Electric Railway has gone out of business—the Niagara Falls Park and River Railway was sold out for a very small amount on what it cost, and is not yet paying—the St Catharines, Merritton and Thorold Railway has been sold once or twice—the St. Thomas Electric Railway is in the sheriff's hands—the Sandwich, Windsor and Amherstburg has been sold a couple of times. Other companies pay no dividend, or next to none, all of which goes to show that the time has not yet come to tax to the full extent capital or even the gross earnings of money invested in enterprises which, though of great service to the public, and in fact a necessity in some localities, are essentially of an experimental character.

Mr. W. M. DOUGLAS: Mr. Chairman and gentlemen of the Commission; I represent a great number of the companies throughout the Province which are not represented by Mr. Robinson. I have a list of them, I think there are about seventy-four altogether. They are the gas and electric lighting companies in the towns and villages and minor municipalities in the Province extending from east to west.

The CHAIRMAN: You have a list of them which you might hand in?

Mr. DOUGLAS: Yes, I will hand in the list which I have (*a*). They are probably in a little different position from some of the companies which are represented by Mr. Robinson, but in no different position from other companies for whom he is speaking; in other

(*a*) See No. 23 in Appendix A.

terms, these companies operating in the towns and small places think that they stand in altogether a different position from the companies which are operating in the large centres such as the City of Toronto; therefore it was thought they might appear separately. Now, it strikes me that the Legislature in issuing this Commission has practically declared that the assessment of companies such as those under consideration should be or might be on a different basis from the assessment of other property, that I think might be fairly gathered from the terms in which the Commission is framed, the different heads of matters which are to be dealt with by the Commission are set out and numbered 1, 2, 3, 4 and so on; now No 2 is the assessment of lands and improvements thereon; No 3, the most equitable method of assessing stocks and other property of mercantile firms and corporations; then we come to No 4 which is, The most equitable mode of assessing companies operating public franchises under statutes in force in this Province or under agreements with municipalities, such as companies for supplying water, and light and heat and power to municipalities and the inhabitants thereof, telegraph and telephone companies, etc I need not read the other articles in the Comission, but is it quite apparent that the Legislature thought for reasons which are not stated that there ought to be, or might reasonably be a different mode of assessing these companies from the assessment which is to be levied in respect of stocks or other property, which would include I suppose real property, mercantile firms or mercantile corporations The language which is used in the Commission, namely the term "operating public franchises," although one does not desire to criticize it, has given the impression to many that the companies which are here referred to are companies which are operating public franchises entirely and solely, and that the profit which is produced, or the result which is produced, is the result of operating that which belongs to the public That I think is of course not the intention of this clause, and I would suppose that the use of those words "operating public franchises" was intended simply to define the class of companies which, as a part of their operations, necessarily derive from the municipalities rights or privileges in reference to the streets; it is simply a matter of description and nothing else; but the use of words like that not only here but also in the arguments that have been advanced to this Commission and in the public press are oftentimes very misleading It has been said that it is not desired, by Mr. Fullerton and Mr. MacKelcan, to assess the franchise; but they do desire to assess these companies in such a manner that the franchise would be included and would be assessed; and it strikes me that a great deal of the agitation which has existed against companies of this class has arisen from entirely erroneous considerations of what these companies are There are various errors I think existing in the minds of the public, or rather that portion of the public which is now demanding a maximum taxation on these companies, although I think that portion of the public is a very small one indeed and is confined almost entirely to the large centres and especially to the City of Toronto. I can bring before my mind three or four startling errors in the consideration of these companies which give to the public and which give to the advocates of increased taxation of these companies a false idea. In the first place these franchises, or what have been called franchises, the leave or license or privilege which the municipality gives to a company or to an individual in reference to the streets of the municipality are considered *ipso facto* things of value which are handed over by the municipality to the company. The second error is in regarding the acquisition by these companies of these rights and privileges as a monopoly. And that carries us on to the third error of regarding every monopoly as something of great value and not only that but also as an injury to the public And there is a fourth error which is not an inconsiderable one at all, and which has been referred to, and that is regarding these companies, because they are companies, in a different light from individuals, or partnerships or unincorporated associations. Now, these are errors, as it seems to me, which have to a large extent misdirected the mind of the public, or of that portion of the public to which I refer, in demanding, as they have demanded before you, a maximum amount of taxation which, if granted, would mean ruin and extinction to nine out of ten of these companies, and would mean an irreparable loss to the balance. Now, we have to face that situation; we have to face the situation that what they demand, if granted, would be entire ruination; and it seems to me that no such demand would have been made if they had not been labouring under misconceptions as to the status and position of these companies in the community which I have described. I do not desire to take up your time to enlarge very much upon these

matters, but I would like to say a few words upon these different misconceptions or errors, and first as to the last; that is the confusion or the failure to put upon the same plane a company and an individual. That is a matter of great concern, and it is for this reason a matter of great concern; the public mind at the present day is filled from the newspapers and from other sources with cries against monopolies, and trusts and combinations. It is quite true that in the world there exist many monopolies, and many trusts and many combinations, but very few of these trusts or combinations have any relation whatever to a franchise, that is such a franchise as we are dealing with. But what is the result? The opprobrium which attaches to these trusts and combinations attaches as a rule to every company. The word "corporation" is treate as convertible with a "trust" or "combination"; and that goes on until the public mind, confusing that to a large extent, attaches to it every company which has anything to do with a franchise or with a municipal right. Now, it is quite clear to the lawyer, quite clear to this board, and I think it is quite clear to every reasoning mind, that the origin of these companies is simply a matter of business, and that there is no difference whatever between the company and the individual. Many years ago concerns such as these were carried on by individuals; businesses were carried on by individuals where now they are constituted into partnerships; but the mere fact that the partnership or the individual has become converted into a company does not confer upon that company any greater rights or privileges in respect of the franchises which they are using in the municipalities. I dwell upon that simply because we have to regard to some extent—not that this board is misled in any way, but because it has been advocated by those demanding the taxation—that has been one of the causes for making the demand, and one of the causes I say is the failure to place the individual and the company upon the same level, and looking at a company as a vast gigantic corporation, or, as Mr. Staunton put it, a howling monopoly. It is also a mistake to consider a monopoly as a thing of value; it does not necessarily follow; some monopolies are of great value, others of less value and some of no value at all. Mr. Hellmuth combated the argument which was put forth by Mr. Cooley which practically meant that all monopolies were valuable; and he showed, in the case of the local street railway company, that it was not so necessarily. But that is a matter we cannot deal with here because the value of a monopoly depends altogether upon the particular circumstances of each case. But it is farther said, or forther regarded, that these franchises are monopolies in fact, or equivalent to monopolies, and that is a very important matter for consideration. I represent, as I say, seventy-four companies which have gas plants and electric lighting plants throughout the Province; they probably are the majority of the companies that are represented here to-day. It is said they are exercising public franchises, in other terms, you have certain rights or privileges from the municipality and these are monopolies. I do not know of a single case of all the companies I represent where there is a monopoly. There is not a single case where it is not in the power of the municipality to grant the same rights and privileges to other persons or other corporations. Then, we find that that has been done; we find that the gas companies which were established throughout this Province in the old days, were rendered subject to competition; and the competition came in the form of electric light; and so keen was that competition that gas companies, which at one time did make some money, have now a bare existence, so it is important to consider that the rights or privileges, or if you may call them franchises, which these companies have are in no sense monopolies and in no sense protect them from the fullest competition by other persons. But why is there not other competition? Simply because no other company could live; the companies already in existence are hardly making a living, and it is only for that reason there is no competition, and for no other reason. Now, I think that these various companies have to be looked at from another standpoint, and that is this, one must regard what was the origin and the rights of gas companies and electric light companies in this Province; we all know that in a general way these companies did not originate as commercial concerns. When the candle went out the lamp came in, and the large cities got gas. The small towns also wanted to have gas but they were not able to find—a great many of them at least—people who would risk their money in the undertaking; and in the case of gas companies the municipalities, in order to induce them to establish heir gas plants, in nearly every case—I suppose in every case—made a contract with hem to take the gas for a certain number of years. In a great many cases they gave

them exemption from taxation. Not for a moment did the municipalities or the citizens consider that the right to put the pipes on the streets was a matter of great value; they were only too glad to get these companies established by giving them that privilege, and in addition to that exempting them from taxation and also making a contract to take the gas for a certain number of years. And so it was with the electric light companies, because when they entered the field they had the competition of the gas companies; and if you cast your mind back a few years you will find that the different municipalities did not advertise these franchises for sale; they did not advertise that they had valuable rights or privileges of the streets which they would sell to people desiring to establish electric light companies; they did not bargain for the sale of these to different individuals, but on the contrary they had great difficulty in getting the people to establish these works; they invited them to do so; and I think you will find in most cases they were established by citizens who had money enough, and who were public spirited enough not to see their town or village behind other towns or villages. And as inducements to the establishment of these works they gave them exemption from taxation for a certain number of years, and also made contracts for the lighting; so that I think the principal of these companies—I am referring now altogether to the companies which I am representing, that is, gas and electric light companies in the towns and local municipalities,—were not established as commercial concerns, but the cause of their origin was, in the first place, the accommodation and benefit to the public. I do not say that those who put their money in would not expect to get a return. Of course they did; that must be apparent to everybody But these companies were when they were first established, and I think must be regarded to-day, as semi-public companies, companies in the interests of the public. I think that was recognized by the Legislature here when the Conmee Bill came up for consideration, because when the municipalities sought to compete with these companies the Legislature said, "No, we won't allow you to do so; we will give you the privilege of buying these companies out upon certain terms, but we won't allow you to compete with them." I think there the Legislature recognized two things, that is, the fact that these companies were, owing to their origin, in the nature of semi-public companies, and also recognized their very weak financial condition. It has been said before the Board to-day that there are only two or three railway companies in the Province that are paying; I do not represent any railway companies, but I know there are only two or three or half a dozen of the other companies, of the companies I do represent, that are paying, Nominally some of them may pay three or four per cent., but they are making no allowances whatever for depreciation in the value of their plant; they are writing off not a cent; if they did that I doubt very much whether there would be more than half a dozen or a dozen of these companies which to day are paying any dividend to the shareholders, they are in that very weak condition. I looked over the list, and I do not know one that could be said to be a flourishing company. Now, what would be the result of taxing these companies on the cost of reproduction? It would simply mean that they would have to go out of existence; they could not possibly live under it; and it strikes me, that is, so far as I have heard, the only mode of assessment which has been proposed by Mr. Fullerton or Mr. MacKelcan It seems to me that the mode which has been put forward by Mr. Robinson is a fair and just mode of assessing the property of these companies; the property of these companies is not in the same position as the property of others. It is one concern. The real estate, the personal estate, or the poles, the pipes or the rails and the appliances for supplying power to the light or heat are inseparably connected one with the other; they are the one thing that produces the product, and they should be no more separated than a mill would with an engine fastened into the ground; it is all one concern, and it seems to me that it is only fair and right that being one concern they should be assessed accordingly. The property is not like the house and lot which are separate and can be so assessed; it is not like vacant land which can be separate and so assessed; so there is on the face of it a difference in the nature of the property of these companies and the nature of other property, nor is their property in the same position as the property of a manufacturer, and that is an important matter to consider. It has been said that a manufacturer is much in the same position as these companies, but I think I can point out to the Board that that is not so, and that a very strong line of demarkation must be drawn between the ordinary commercial companies and companies such as those now under consideration.

The manufacturer or the commercial company has the world for his market; that is the first consideration. In the second place he has the privilege of locating where he chooses, and can change his location as often as he chooses. On the other hand these companies are extremely local, they cannot change their location; they have got to stay where they are, and get along the best way they can. They have not the world for their market; they have got a very limited market. It is a small town or a small village. And in the third place they are subject, and very much subject, to the caprices of local agitators and very often to the caprices of the councils themselves, and would be more apt to be subject to the caprices of assessors than these manufacturers or other individuals or other establishments in the locality. If a manufacturer considers himself assessed too high he at once negotiates with another town which will offer him an exemption from taxation and a large bonus to leave; his own municipality is very soon alive to this, and his assessment is at once lowered, and so true is that that we know as a fact that acting within due bounds of reason the manufacturers in the different towns of the Province practially fix their own assessment; they agree with the assessor upon a very moderate sum, which, in most cases, does not amount to more than probably twenty-five per cent. Now, you will see at once the different position which a manufacturer therefore occupies to one of these companies; the manufacturer has the pistol in his hand always; and reasonable councils and reasonable assessors will never attempt to assess a manufacturer up to one hundred per cent. of the value; they will never attempt to assess him at more than twenty-five to thirty five per cent. of the value. But would that be so in the case of these companies which cannot leave? I think you would find if you put a manufacturing establishment and a gas company or an electric light company on the same basis the assessor would assess the gas and electric light company at one hundred per cent., and the manufacturer at about twenty-five per cent., and then you would get a great inequality of assessment, a thing that is not to be desired for a moment. Now, it seems to me that no one could pretend for a moment, and no one could produce statistics or arguments to show to this Board that any one of these companies that I represent, or that any one of the many companies represented by Mr. Robinson, has a franchise that is worth a cent. These franchises have no value whatever, and it seems to me the only question is, what is the most proper and equitable mode of assessing their property? And on behalf of these companies who have been communicated with we have agreed to the mode which has been proposed, that is to an assessment of sixty per cent. of the gross earnings. That will make some of the companies pay more taxes than they are paying now. I am not referring even to those companies who are assessed on the scrap iron basis, but it would make some of the companies pay more than they are paying now assessed altogether apart from the scrap iron basis. Other companies probably would pay a little less; but on the whole, and considering the position of all the companies, they have come to the conclusion that it would be a fair mode of assessment, and they concur in proposing a mode to this Board for its adoption and recommendation to Parliament.

Mr. FRANK MACKELCAN, Q C.: As representing the Ontario Municipal Association I desire to say that they were content with the mode of assessment of companies of this character as it was understood and administrated prior to the celebrated decision which has so often been referred to as the Scrap Iron Decision, subject only to one modification, that is to say, that these companies were placed on a footing of preference over individuals by reason of having their personal property exempted from taxation where more than half their capital was invested in real estate. Allusion has been made to the reason, or the supposed reason, which actuated the government in issuing this Commission. I may say that the two reasons which prompted the government to take action were, I think, the representations made by a large number of representatives of the municipalities to the government as to the injustice of the scrap iron basis of assessment of the companies that have been represented here to-day, and also the agitation made by the retail merchants with regard to the assessment of departmental stores, and the proposal by them of what was called the turn-over tax. Those were the two new causes which in a great measure influenced the government in issuing this Commission; and it was not a discontent with the law as it was understood and administered prior to the Scrap Iron decision, or any agitation made either by the companies or the municipalities prior to that time. The desire of the municipalities I represent is that companies should be placed upon precisely the same footing as individuals with regard to the liability of their

property to assessment and taxation. The first street railway that was built in Toronto was built by a private individual who got a thirty year franchise from the city of Toronto.

The CHAIRMAN: Mr Easton?

Mr. MACKELCAN: He obtained a thirty year franchise in the city of Toronto, and constructed the first street railway, which was a horse railway; and the first electric light plant in the city of Hamilton was established by a private citizen who put the poles and wires throughout the city, and made a contract with the city for lighting it, and also supplied private lighting. I suppose if those enterprises had still continued in the hands of the individuals who promoted and established them there would have been no question here as to their liability to taxation, but they would have been taxed just in the same way as the property of other individuals would have been taxed. But now because these enterprises are in the hands of companies, by reason, of course, of the enlargement of the expenditure and the greater areas that the railways cover, and the greater volume of business, they seek to have a different mode of assessment established from what would have been continued had the properties remained in the hands of private individuals or partnerships. So far as the city of Hamilton is concerned I may say we had no trouble at all in regard to the street railway, only since this decision which has been alluded to. The old company, in the first place, paid upon all their horses and cars—all their rolling stock—besides their real estate—at that time we had not taxed their track. I think the decision in the case of Fleming v. Toronto Street Ry. (a) was in force at that time, and following the law they were not taxed upon their track and ties and structure of that character. When Fleming v. Toronto Street Ry. was practically overruled by the Supreme Court they were taxed upon their track as real estate; when they were so taxed then they invoked this section 30, and said, "Now, we are taxed upon our real estate, we should not be taxed upon our personalty." So that it amounted to about the same thing in the end as it always had been before, except the tax was transferred from the personal property to the real property—the amount being about the same. Then came this decision in the Bell Telephone case which said that being assessed by wards they could only be taxed upon the value of their superstructure as if it were all torn up and thrown into the scrap heap; and that reduced the taxation to a basis with which the municipalities are not at all satisfied; and we simply ask to have the law made to conform to what we think was always the intention, that is that this property which is liable to assessment should be assessed at its fair value, and that those clauses which have been invoked for the purpose of reducing the value to the scrap iron basis, that is, the clause with reference to the valuation as if taken by a creditor of a solvent debtor, and the other clause which relates to the assessment of this property in sections in the different wards, should be eliminated so that their property should be liable to taxation upon the same fair basis of valuation as is the property of all other persons, all other individuals. So that we are not asking for any radical change in the law; we simply want the law to be interpreted in a way that we will get what was the original intention, that is, an assessment upon this property according to its value; with, however, this difference that we do ask that companies should be placed on precisely the same footing as individuals with regard to the liability of all their property to taxation, both real and personal; that there should be no distinction. At present, although I do not think the law has been enforced to the extent to which if invoked by the parties assessed it might be enforced, if a man is engaged in a business which has required the investment of more than half his capital in real estate but nevertheless in that business he has a large amount of personal property as well, he is liable to taxation upon the whole of his real and personal property: and if it is a partnership, they are liable to taxation upon the whole of the real or personal property. But if they form themselves into a joint stock company they are liable to taxation only upon their real estate, and their personal property escapes assessment under the present law; that is manifestly unjust and unequal and it should not remain upon the statute book for a moment. The result of putting these companies on the same footing as individuals would be that so far as electric railways are concerned—local railways—and so far as electric light companies are concerned, and gas companies both their real and personal property would become liable to assessment. I think that is as far as we ask any change in the law, in addition to the elimin-

(a) 37 U.C.Q.B. 116.

ation of the sections that I have spoken of. In regard to the franchise I wish to repeat what I have said before, that our view is that a tangible property in the municipality should be taxed, whether it is land, buildings, or personal property of a tangible character. This does not embrace any——

Mr. JUSTICE MACMAHON: Whatever you can see?

Mr. MACKELCAN: It does not embrace any abstract value in the franchise. It seems to me there is no abstract value in the franchise, for this reason: you take a gas company, and a gas company is said to have a franchise because it has a right to use the streets of a city for the purpose of laying its pipes, that right being given by the statute. That right consists of a statutory title in perpetuity to the land which the gas company occupies from time to time; and when you are assessing the property of a gas company you assess its pipes as they lie in the ground, and you give a value to that territorial right which they possess, give a value to the title which they have to that land, and that is really what their franchise consists of, that is, an ownership to that extent in the land or an assessment in the land; and that you can value as property. So far as the street railways are concerned the municipality grants the street railway company a franchise or a right to use the streets of the city, but the municipality then becomes the ground landlord; it is like the owner of a property which he lets upon a building lease, and the city being the landlord, takes the rent and should bear the taxes if any upon the land; therefore there should be no taxation with regard to the value of that land upon which the structure of the railwry company is placed; but all their property that they placed upon that land, just as a building that a man might put on land that he has rented upon a building lease, should be liable to taxation, the company should be on the same plane as all other dwellers in a municipality, be liable to assessment for the value of the structures placed upon that land so leased by them from the city. It seems to me the position is a perfectly plain and intelligible one that can scarcely be gainsaid. We have then a simple basis of taxation upon property the value of which is easily ascertained. So far as ascertaining the value is concerned it was stated here the value per mile of The Toronto Street Railway Company was agreed upon between the city and the company at $6 300 a mile. In Hamilton we also agreed upon a value per mile of the superstructure of the railway company when we assessed it upon the old basis; it was supposed to be according to its actual value.

The CHAIRMAN: Do you mean the cost of putting it down?

Mr. MACKELCAN: The cost of it as laid. Any man accustomed to building these railways can tell this is worth three, four, five or six thousand dollars per mile according to the nature of its structure.

The CHAIRMAN: The cost of construction?

Mr. MACKELCAN: Yes, the material and the cost of putting it where it is. It is very easily estimated, any practical man can tell you in an hour; and at any rate with the figures in possession of the company there is no difficulty at all in arriving at a mutual agreement in regard to that.

The CHAIRMAN: The income they make by the use of it is immaterial; in one case it might be one hundred times what it is in another, but the tax ought to be the same. Is that the proposition?

Mr. MACKELCAN: Yes.

The CHAIRMAN: I thought you dissented from that altogether.

Mr. MACKELCAN: That might be so but the earnings of a railway company depend very much upon the ability of the manager to make profitable traffic arrangements with other Companies; it is a matter of diplomacy and business shrewdness.

The CHAIRMAN: And not the population of the country?

Mr. MACKELCAN: Yes, it may fluctuate from year to year; for instance, a certain alliance which is a privileged one may be broken up and large profits swept by reason of some rival company who have come in and taken away that trade; or competition may come in; for instance, take the case spoken of here to day of a London concern such as the gas company carrying on a profitable business, when somebody else establishes an electric light company in opposition with the result that the profits of the gas company are wiped out; there are in the municipality then two different concerns, one a gas company, the other an electric light company and probably the gross receipts of the two companies are not greater than the gross receipts of one would have been if it had all

been in the hands of the one company ; and yet there is in that municipality a large amount, probably of poles and wires that were not there before, and are annually placed there ; there are also all the gas pipes there belonging to the gas company, and yet according to the argument advanced here there should be only a taxation on one of those properties, that is to say, if the gross receipts of those two were only equivalent to the gross receipts from one before you should not practically tax the one enterprise at all, but tax the whole for the value of one——

The CHAIRMAN : If the same business was done as before you ought to get the same income, the same taxation ?

Mr. MACKELCAN : According to that view if a rival building is put up or a rival business is established you should only tax one of them. If the property is there——

The CHAIRMAN : If the effect of renting another building is to depreciate the one one-half then the result ought to be just the same.

Mr. MACKELCAN : I think not, I think the property is liable to taxation according to its value.

The CHAIRMAN : It is liable to depreciation.

Mr MACKELCAN : Yes But tax each one for what it is worth in its present position, but you can't pool the receipts of the two nor tax them jointly in that way, nor simply cut down the value of the property because temporarily its gross receipts have diminished. It seems to me the system we have always had of taxing the property itself according to its fair value, as we supposed by the law, is the system that ought to be continued ; I do not see any reason at all to find fault with it, and I do not advocate any change in it except to abolish that distinction between companies and individuals with regard to the assessment of personal property, and we ask you further to give us the right to tax this property not at its scrap iron value but at its actual value. Mr. Robinson said the gross receipts of the company bore a relation to the value of all its property, and therefore taxing the gross receipts would be practically taxing the actual existing property of the company. It does not seem to me that it should be necessary to first find the gross receipts and then calculate back from the gross receipts what the value of the property is to the company when you can find out the actual value of the company without going through any such sum of arithmetic. You can ascertain what that property cost to put there, and what it is worth there as property in the condition in which it stands ; and that is what we ought to look to. I must say, if we get into this question of gross earnings and have to distribute them throughout all municipalities in the Province we will get into a labyrinth of figures that no assessor and no municipality could ever understand. We have a plain, simple proposition to deal with now, that is, there is that property ; what is it worth ? You say, No, because we are not making any money out of it, it has depreciated in value and is not worth any more than so much. We say, very well, we will assess it at that, we will assess it what it is worth ; if it is not worth what it cost then we won't assess it at full cost, but at what it is worth as it stands there now.

The CHAIRMAN : How will you ascertain the value of the property where there are no buyers and there can be no competition, a property with a terminable franchise ?

Mr. MACKELCAN : There is no practical difficulty in arriving at the value of that property.

The CHAIRMAN : How would you go about it ?

Mr. MACKELCAN : Suppose a franchise had come to an end, and you had to have an arbitration to determine the value the municipality should pay for the plant and property that was there, you would have to arrive at a valuation somehow—

The CHAIRMAN : Well, how ? There is nobody to buy it.

Mr. MACKELCAN : If the arbitrators can determine it, then the assessor or the Court of Revision can determine it.

The CHAIRMAN : Suppose you were an arbitrator, how would go about it ?

Mr. MACKELCAN : Quite easily, I would ascertain what that property cost, and what it was worth there now as it lay. If it was a going concern then it is worth all that it cost to put it there ; if it is not a going concern, if it is a dead concern and nobody else will buy the enterprise, but it has to be taken up and sold for old iron, then that is all it is worth there. It will depend upon the surrounding circumstances, and the condition of the property and the condition of the business and so on, but that can

be arrived at by an assessor, or Court of Revision or the County Judge on appeal. You might have the same difficulty exactly in arriving at the value of a building, you have under the present law ; supposing a manufacturing enterprise ceases and the manufacturer moves out, and the building is left there vacant, and the assessor has to find a value for that building, and if the party assessed is not content he appeals to the Court of Revision, and if not content there he goes to the County Judge, but somebody has to fix the value ; and that is a thing based on cost and other surrounding circumstances which go to make up the actual value of the property. There is no greater difficulty in ascertaining the value of the superstructure of a railway, that is, the ties and rails, or poles and wires of an electric light company, than there is in ascertaining the value of a building—not any more ; one is bricks and mortar and timber—and you may say, well, you can't value those bricks and timber and mortar, you can't ascertain what those things are worth ; but you can ascertain what the building is worth as a whole, and so you can tell what a mile of railway is worth. That is a practical difficulty that has to be worked out in the valuation of all properties both real and personal.

Mr. JUSTICE MACMAHON : I suppose if a municipality is going to assume the business of a gas company or electric light company and run it itself there must be some way of ascertaining the value of the property when they are going to take possession of it ?

Mr. FULLERTON : The Conmee Act provides a way of working all that out

Mr. JUSTICE MACMAHON : But for the purpose of taxation, putting the two illustrations that have been made, the case where the gas company is in existence and the electric light company comes into the municipality and starts a business by which the gas company's profits are materially reduced, or perhaps reduced to such an extent that the stockholders are getting a very small percentage on their money, is not the simple and the only way to tax the two companies to see the gross amount they are each receiving and tax that ?

Mr MACKELCAN : No, the company could very justly say, The value of our property has been depreciated very much ; you would then say, To what extent ? That is a matter of evidence and you would cut down the assessment, reduce it 25 or 50 per cent. as the case might be.

Mr. JUSTICE MACMAHON : But the simple way is the other way ?

Mr. MACKELCAN : No, here is the easy way to do——

Mr. JUSTICE MACMAHON : You say there is a certain depreciation by reason of the falling off of the earnings and the consumption of material ; then how are you going to provide in the statute for what will be a fair depreciation by reason of the——

Mr. MACKELCAN : Quite easily.

Mr. JUSTICE MACMAHON : Could you frame a clause ?

Mr. MACKELCAN : Yes ; this very clause I have asked for, "the fair value," and I would be very glad to leave it to your Lordship, in a case of this kind——

The CHAIRMAN : Leave it to the assessor ?

Mr. MACKELCAN : I suppose by reason of competition the receipts or earnings of the property were so reduced that the value was a little depreciated—

The CHAIRMAN : Reduced say to one-half ?

Mr. MACKELCAN : Yes ; and the matter came up before the Court of Revision, I would say that the property cost so much and was worth so much, it has depreciated, and I would say to reduce the assessment to its actual value. There would be no difficulty because you would reduce the value to the proportion of the profits or earnings.

The CHAIRMAN : That is what Mr. Robinson says, let the assessor apply that rule.

Mr. MACKELCAN : Yes. All these are elements to be taken into consideration by the Court of Revision, assuming the company disputes the assessment ; or the assessor could in the first place ; but these are all matters that can be reached before a Court of Revision or a Court of Appeal.

The CHAIRMAN : Why are you looking for appeal, looking for obstacles ?

Mr. MACKELCAN : Take a company that extends all over the Province, are the assessors going to have to hunt that Province from end to end to see what the gross receipts of the company have been from end to end of the Province ? All you do is to take the value of the plant in the municipality, and to tax that ; and if this concern is doing a big business in that municipality, and making money there, it won't grumble at its taxation ; while on the other hand if it is a decaying concern and its profits have been

cut down by competition and so on they will represent that to the Court of Revision or to the assessor, and they will have their assessment cut down accordingly. There is very little difficulty in bringing before a Court of Revision all these elements which go to bring about a conclusion as to what the actual value is. But if we had in every case to assess the gross earnings I say we would get into a labyrinth of figures that would have the assessment of all these companies in practically a state of chaos, and when you have to divide these figures up amongst all the municipalities no municipality would know where it was at. In nine cases out of ten now the municipalities have no dispute. You take these villages and country municipalities and ask and you will find they have a sort of rule-of thumb way of assessing. They assess at some small figure and the companies are quite content, and there is no dispute, and no appeal, and each locality is satisfied. If the company is doing a public service, and it has enlisted the sympathies of the people of the municipality they are lenient with it in the matter of assessment if the company is not a profitable one. But if the company is making a lot of money and charging very high rates for public lighting, something of that kind, they would probably assess them accordingly ; but in that way a sort of rough justice is done in each municipality, and both parties are mutually satisfied. But if you were to get a cast iron rule that the whole gross earnings of the company throughout the Province were to be estimated, and then some board was to apportion these gross earnings throughout all the municipalities of the Province you would get into a complicated state of assessment such as I do not think is at all suitable to the nature of our municipal institutions. I say, let each one within its own boundary regulate the valuation which is to be placed upon the local property. There is only one thing where I see any difficulty with regard to that, and that is, if you assess the stock of a local electric railway company with personal property which is distributed from day to day from one end of the line to the other, and one municipality assesses the entire rolling stock say at the head office, such proportion of the value as would represent the proportion of the mileage within the municipality might be appropriated to that municipality ; that is the only way in which I could suggest the distribution of the assessment of the personal property of the local railway, unless the personal property, that is the rolling stock, be treated as real estate, and so assessed along with the real estate, and the value distributed in the same way, so much a mile for track and so much a mile for rolling stock ; if the rolling stock amounts to say $100,000, and there were 10 miles of railway it would be assessed at $10,000 a mile, but it would probably be very much less than that.

Mr. BUTLER : Would there be any occasion for a Provincial Board for anything else than railways, telephone and telegraph companies ?

Mr. MACKELCAN : I cannot see that there would.

Mr. BUTLER : So that it would be only telephone, telegraph and steam railway companies ?

Mr. MACKELCAN : Yes.

Mr FULLERTON : That would be only on the long distance telephone lines—

Mr. MACKELCAN : Yes, long distance. But in telephone lines there is a large amount of construction used entirely for local purposes ; and they take up a certain amount of room in the city, and have a lot of tangible property within a city, and it seems to me they should be assessed in the locality where they are and where they take up the room ; then the lines which are through the country, which are only single lines of course, are assessed at a small amount, and the rate of taxation is very small ; and it does not seem to me that it is worth while to add these all together and get the sum of the whole and then divide them all up again, when you can just take each where it is and let the local assessor of each municipality assess that is there and you get rid of an immense amount of trouble that you otherwise would have in summing up the whole and then dividing it again. Just let it be estimated according to its territorial and actual distribution and division and so you get the property in each municipality liable to assessment just where it is situated. If these suggestions were adopted it would mean very, very little change in the law, only a change of the wording of two or three sections, that is to say, a change in the section 28 which has already been alluded to as to the value of property ; a change in sub-section 2 of section 39 ; and then with reference to steam railways I would ask a slight change in the wording of sub-section 1 of section 31 which reads, "The quantity of land occupied by the roadway and the actual value thereof according to

the average value of land in the locality." I would substitute the word "at" instead of "according to."

Mr. WILKIE: What is your object in that?

Mr. MACKELCAN: Because it has been found to be uncertain in its meaning.

Mr. JUSTICE MACMAHON: You have already dealt with that.

Mr. MACKELCAN: Yes; but I probably did not give you an exact reference to the section; and as it comes up now particularly in connection with railways I mention it. Then the last sub-section, No. 3, which I have not touched upon says "The vacant land "not in actual use by the company, and the value thereof, as if held for farming or gard- "ening purposes" Sometimes a railway company holds a large tract of valuable land in a city which it does not wish to part with because it may require it for the extension of its buildings or premises, and while the property in the immediate neighborhood is taxed at its ordinary value as city property the railway company ask to have their vacant land taxed as if it were farm land, not with the qualification that is contained in the other section with reference to farm land, that is, regard being had to its situation, but just absolutely as if held for farming or gardening purposes.

Mr. BUTLER. Do you know of any case where a railway have a lot of land like this?

Mr. MACKELCAN: Yes; there is land of that kind held in cities.

Mr BUTLER: Where?

Mr. MCKAY: There are 200 hundred acres in St. Thomas.

Mr. JUSTICE MACMAHON: That was land bought for shops.

Mr. MCKAY: There are 200 acres adjoining shops.

Mr. MACKELCAN: Section 30 provides that vacant land "shall be assessed at a valuation which at six per cent. would yield a sum equal to the annual rental, which in the judgment of the assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages," just the same as in sub-section 1 of section 31, "At the average value of land in the localities."

Mr. PRATT: You would wipe out that section altogether?

Mr. MACKELCAN: The two could be combined and put on the same footing. There is one point also, I think I gave it before, but I do not know that note was taken of it as this subject was not particularly dealt with, this section 31 requires that the railway company "shall annually transmit on or before the first day of February a statement shewing the quantity of land occupied by the roadway, and the actual value thereof according to the average value of land in the locality"; but it does not say it shall be assessed at that value, either in that section or the next, it is inferred that it should be assessed at that value but it is not so said there in the statute that that is the value at which it is to be assessed. The statement the railway company is to send is what is there.

The CHAIRMAN: It has been held for many years that that is the meaning of it.

Mr. JUSTICE MACMAHON: There is no question about it.

Mr. MACKELCAN: That has been the practice followed, but that was questioned, I may say, the other day before the County Judge at Hamilton and acted upon.

The CHAIRMAN: That is the present law; it has been so decided, and never questioned; it has never been questioned in any case.

Mr. MACKELCAN: It was questioned, and the assessment reduced from $10,000 to $1,000 just a short time ago.

The CHAIRMAN: Then he was violating the law.

Mr. MACKELCAN: He thought he was following the law. I want to have the law made clear on that point.

The CHAIRMAN: If you want to change the law that is another thing.

Mr. JUSTICE MACMAHON: He does not want to change the law, but wants a change made in the Act——

The CHAIRMAN: You want a change from what the court has held to be its construction?

Mr MACKELCAN: No. I want to make that clear; the section is not clear; it is not declaratory; it should be declaratory, so as to make the intention of the law on this subject beyond all doubt. When we are amending the Act we want it made perfectly clear, so that "he who runs may read" without going to the decisions, because everyone has not the decision or knows where to find it; particularly that might be the case in a country municipality, where that question might come up.

The CHAIRMAN: Any judge before whom that question might come up would have to follow that decision.

Mr. MACKELCAN: But he might not know the decision.

The CHAIRMAN: He is bound to know the law and to administer it.

Mr. MACKELCAN: I do not think that one point has ever been expressly decided—at least I am not aware that it has; I have not seen it that the effect of the statute is that land must be so assessed by the assessor. The question came up and was decided a great many years ago by the late Chief Justice Robinson, that the superstructure was not assessable, that was all; that was the only point.

The CHAIRMAN: By reason of that section?

Mr. MACKELCAN: Yes. But this point about the value of the land being the value of the other land in the locality.

Mr. JUSTICE MACMAHON: It was decided that you must not add to the value of the land in that locality the value of the superstructure?

Mr. MACKELCAN: That was all that was decided.

Mr. JUSTICE MACMAHON: The one point decides the other.

Mr. MACKELCAN: Not necessarily.

Mr. JUSTICE MACMAHON: I think so.

Mr. MACKELCAN: It is not perfectly clear. All I can say the position was argued and sustained not long ago in our city, and this case before Chief Justice Robinson was held to apply to the one point, that the superstructure was not to be added to the value. The section does not say it was to be at the annual value; nor did it say the assessor was to assess at that value; it does not declare what the assessor was to do. I want that made perfectly clear, as to whether the law should be changed with reference to the superstructure, that is to say, the rails and ties and so on of steam railways—I said something to the Commissioners on that point when the subject was up before, and I will not repeat it now. It is a question of policy whether local railways are made liable to assessment as they are held now by law to be liable for assessment for their superstructure, for ties and rails, whether the same rule should not apply to steam railways, whether there is no reason in law why one should be placed in any different position to the other. I have nothing to urge whatever with regard to that, only I bring that point to the notice of the Assessment Commissioner with a view to obtaining uniformity in the method of assessment, if the Commission think it desirable to make any change in that regard. While I am on my feet I will point out that if that is the latest law we have upon the subject of taxation of railways, that is, the Act recently passed in the city of New York, it is declared that all bridges, all telegraph lines, wires, poles and appurtenances and so on—it goes to expressly make all the superstructure of railways liable to taxation, and also in addition to that requires a value to be placed upon the franchise. Now, all that we are asking here is to tax the property without adding the franchise, for the reasons which I have given; but they have there taken in all this superstructure as a proper subject for taxation, so far as the railways are concerned, superstructures such as I have been speaking of. In addition to that they include sub-structures and bridges, which we do not ask you to include; but the actual property which lies upon the surface, above the graded road, we consider as a proper subject for taxation, and so far as the franchise is concerned, it not being tangible personal property but something in the abstract, a mere right or power to use the property which they own, I do not consider that that is a subject of taxation any more than a man's brains, or ability or capacity for business combinations are subjects for taxation.

Mr. ALAN C. THOMPSON: Mr. Chairman and Gentlemen: After listening to the arguments of the solicitor for the different corporations, especially those of Mr. Robinson, I feel more strongly convinced than ever of the urgent necessity of public ownership of all these franchises. It would simplify the matter very materially.

The CHAIRMAN: Government ownership of railways?

Mr. THOMPSON: Of railways and all those different public services, telephones and telegraphs.

The CHAIRMAN: Municipal ownership?

Mr. THOMPSON: Well, public. The city should own the small ones; the Government should own the railways and the telegraphs and the telephones; however, that is not the subject of the discussion to-day. Mr. Robinson said an equitable way of taxing

these franchises could be arrived at by assessing sixty per cent. of the gross earnings of the road, or of the franchise, whether telephone, gas or electric light, as being a correct basis of taxation. If he would take that as a basis for estimating the value of the franchise I would be inclined to agree with him, yet I am afraid in many cases that might be in excess, for as some of our friends pointed out, many of these smaller companies are simply making a bare living There, however, appears to be considerable misunderstanding as to what a franchise really is. We have heard some of the gentlemen speak about a franchise differing in value as you went on; a twenty year franchise becoming less and less in value as it went on. While that is true as far as the selling value of the franchise is concerned, I contend the taxing value of the franchise it has nothing to do with. The value of the franchise for the purpose of taxation is the revenue which it will produce in any given year, so that the year before the franchise terminates, for the purpose of taxation, should be just as valuable as when the franchise was first granted; in fact our experience has been that it would be more valuable, because the earning power has generally increased as the municipality has increased in population. Now when you look at it from this point of view you see that the question of whether the franchise is a monopoly or not has nothing whatever to do with the value. It has a great deal to do with the selling value for speculative purpose, but it has nothing to do with its value for taxes that is what we have to do with. As long as any company has, I don't say an exclusive right, to use the street, but the exclusive use of them, it has a greater value than if that franchise is divided in two; and as we proceed we see it is very easy to determine whether the value is increased or decreased. If the earning of a Gas Company falls off in consequence of the long franchise being divided up between the Electric Light Companies, then there is a falling off in the franchise value, and there has to be a diminution of the tax rate. Now it has been stated that in many cases there is no value in a franchise. If that is so, then there can be no reasonable objection on the part of the holders of those franchises to have the franchise taxed according to its value. If there is none why that settles it. Now in order to arrive at the value of a franchise we have to do some figuring, and surely if a thing is worth doing at all it is worth doing properly. In order to determine the value of a franchise for taxing purposes from year to year we must estimate in the first place what is the actual capital invested in the plant for carrying on the business of the particular company. If we still stick to the antiquated method of taxing wealth wherever you can find it, it simplifies the matter very much, because you can then more readiy get at the whole value of the thing as a going concern, based on its earning power. But if you do as I think should be done, encourage industry by taking the tax off wealth and useful services, then we must estimate the actual capital that is invested in this business, allow the ordinary percentage for capital engaged in business, which is about five or six per cent.—that could be easily arranged if necessary, either by statute or by custom of the municipality—and then having deducted that income, that amount representing the interest on the capital actually invested, deduct that from their net income and you then have a basis for determining what their franchise is. Of course this is only a temporary expedient, this taxing of franchise; public opinion is of such a nature now that in a very short time it may be a question of public ownership, but during the interim, as in the case of the Street Railway Company where there has been a franchise granted for a certain period of years, we claim they should take the value of the franchise. But aside from basing my argument as to the advisability of assessing franchise in that way, we have the other way of looking at it. In the case of such a Street Railway who are paying a certain rental to the city of Toronto or other municipality, they are in exactly an analagous position to a purchaser of land from the city, or a lessee of land from the city; they have to pay not only rent but taxes, and there is no reason why they should escape paying their taxes on the land value, because the franchise value is not simply to use the street, it is practically the exclusive right in the case of Toronto, it is the exclusive ownership of the city of Toronto for the purposes of the Electric Railway; it is the exclusive ownership of the city of Toronto for carrying on a gas business—it is not simply the ownership of two or three streets, it is actually and virtually the ownership of the whole municipality for carrying on their business

Mr. WILKIE: That is what they purchased?

Mr. THOMPSON: Well, in many cases there has been no purchase money paid.

Mr. WILKIE: You have mentioned one instance.

Mr THOMPSON: They have not paid.

Mr. WILKIE: That is what they bought.

Mr. THOMPSON: They bought the right of carrying on exclusively certain business, just the same as a man who bought a lot, bought the exclusive right of using that lot, but always subject to taxation. It has been stated by the solicitor for the London Street Railway Company that whereas it has been said they pay no rent, they have actually paid a very considerable rent in the form of making the road and so on, and that therefore they should be exempt from taxation. Well, the same argument would apply in the case of Toronto that I referred to. Then he states that there is no franchise value there, and yet he admits that there is a large earning capacity. Now the whole idea of the franchise is to permit them to carry on business and to enable them to have an earning capacity; and the admission that there is an earning capacity, if that earning capacity is anything above the actual ordinary rate of interest for the amount of capital invested, proves that there is a very valuable franchise. Another statement was made that in cases of taxing the franchise of these different companies there would be a very material loss in the value of the stock. That, I think, is hardly an argument that should be introduced before this Commission, as an alteration of the taxes in any shape or form is bound to interfere with some person's profit, and I don't think it has ever been recognized that alterations made by the taxing power should be followed by compensation to any interests adversely affected; and, consequently, if there is no question of compensation it is an argument that should have no weight before any judicial committee. It has been stated that in Chicago the average assessment is only twenty per cent. If the Commission which was appointed in the State of Illinois to go into the question of taxation was fully studied it would be found that while that is true, generally speaking, yet, whereas the average is about twenty per cent., the poorer the person, the smaller the property owner, the higher his taxes are on property. The poorer properties are assessed about forty per cent., the richer properties about five per cent., so that it is a question there not so much of the carrying on of any kind of a tax law as the utter rottenness and corruption of politics in that city; so that I don't think you can base very much or draw very many sound deductions of the inequalities of taxes there except in so far as it involves the principle. It has been suggested that in a case where a ground landlord rents land to an individual that is analagous to where the city allows a corporation to have possession of the streets for the purpose of carrying on electric lighting or anything of that kind, and that the ground landlord pays the taxes. Well, I have had some little experience in that line, and I think the custom of the country is quite the contrary. The ground tenant not only pays the ground rent but he pays the taxes too, and he has to build whatever property he erects on the land in addition.

The CHAIRMAN: Suppose an arbitrator was fixing the rent for a period of ten years between the landlord and the proposed tenant, and the tenant was to pay taxes, would not the arbitrator have to regard that in fixing the rent?

Mr. THOMPSON: He would; of course the tenant paid not only the rent but the taxes, no matter how you put it.

The CHAIRMAN: Putting that question first in that form, would an arbitrator, in estimating rents which he would fix for the tenant to pay in ten years, not regard the fact that the tenant was going to pay taxes?

Mr. THOMPSON: I don't think so, for this reason——

The CHAIRMAN: Don't you think he would be a very unjust arbitrator who would propose to say that the rental he was going to fix would be quite the same whether the tenant was going to pay the taxes or not?

Mr THOMPSON: Oh, not at all, but the custom is——

The CHAIRMAN: I am not asking the custom, I am asking what would be just for the arbitrator to do.

Mr. THOMPSON: The rent and taxes would be both part of the payment he pays to his landlord.

The CHAIRMAN: Would he not fix a lower rent if the tenant was to pay the taxes than he would if the landlord was to pay the taxes?

Mr. THOMPSON: Certainly.

The CHAIRMAN: Then who pays the taxes, pray, I ask?

Mr. THOMPSON: As a matter of fact the tenant always pays the taxes. It may be there in so many words or not, but the tenant pays the rent and the taxes. If the landlord was to pay the taxes he would charge the tenant that much more rent.

The CHAIRMAN: I am not considering whose hand would pay the taxes; if the agreement was that the landlord was to pay the taxes he would pay them, if otherwise the tenant would pay them.

Mr. THOMPSON: The tenant always pays the taxes in a case of that kind.

The CHAIRMAN: That is according to agreement?

Mr. THOMPSON: No, he might pay them twice but he can never escape paying the taxes; that is the one thing that cannot be passed on, the tax on land. That, I think, every political economist will bear me out, even the orthodox school. John Stuart Mill bears me out; he lays it down that tax on land cannot be shifted, that it comes out of the owner of the land, but the tenant who takes that has got to pay it, and it comes out of the landlord's net rent. If the rent and taxes on a piece of property are $1,200 a year, if the tax is $200 a year the landlord gets that much more.

Mr. JUSTICE MACMAHON: You say the landlord is exonerated from the payment of the taxes by reason of their coming out of the pocket of the tenant.

Mr. THOMPSON: Yes, that is right, and whether it is included in the lease or not of course it comes out of the tenant, but if by actual agreement the landlord is supposed to pay the rent, of course he will get that much more from the tenant, I think that is quite clear. There is another suggestion I would make in reference to this talk of a Provincial Board. It appears to me that inasmuch as the Ontario Government are now having the course to direct taxation, it would be only fair that these franchises which are in the nature of income franchises should be taxed and the money retained by the Ontario Government itself. That would relieve the municipalities from a great deal of figuring that Mr. MacKelcan is so much afraid of, and at the same time I think prevent any jealousy between the municipalities and supply the Province with a revenue to which I think it is justly entitled. That is a revenue derived from the whole of the Provincial franchises.

Mr. JUSTICE MACMAHON: How would the public works of a municipality like Toronto be kept up if they did not get the taxes from these?

Mr. THOMPSON: They would get the taxes from all their local values. For instance, a telegraph wire between one end of the Province and the other does not get its value from any municipalities; it owes its value to the fact that it has a right of way from one end of the Province to the other. As it is now, you don't get anything approaching to the value of the land as it is now used.

The CHAIRMAN: Why do you give that tax to the Province?

Mr. THOMPSON: Because it is really a Provincial franchise.

The CHAIRMAN: No, these companies are incorporated by parliament.

Mr. THOMPSON: You are speaking now of their incorporation; I am speaking as to how their value arises. Any concern which runs through one municipality to another and within the bounds of the Province I should say was a Provincial franchise and should be treated as such.

The CHAIRMAN: Would not the same reasoning give it to the Dominion?

Mr. THOMPSON: If it is in the Dominion more than the Provincial it might. Nearly all the original railways, for instance, were Provincial.

The CHAIRMAN: The telegraph and telephone are Dominion.

Mr. THOMPSON: The railways were nearly all Provincial except the Intercolonial and the Canadian Pacific. The systems have grown up out of the absorption of the local railways, and it would be a comparatively easy matter to determine the value of a railway of that kind within the Province.

Mr. BUTLER: There are a great many companies that have no Provincial charter whatever.

Mr. THOMPSON: You are speaking of charter; I am speaking of them carrying on business in the Province.

Mr. JUSTICE MACMAHON: The Grand Trunk was largely subsidized by the Dominion.

The CHAIRMAN: How would you estimate the value of franchises such as you have been speaking of, for assessment purposes?

Mr. THOMPSON: I would estimate the cost it would take to replace them, without taking into consideration the value of the land at all—just the cost of the actual wealth

invested, and then I would estimate the value, and I would capitalize their net earnings and deduct the one from the other.

The CHAIRMAN: Capitalize their net earnings?

Mr. THOMPSON: Yes. Of course it would require some little consideration to find out what their net earnings would be.

The CHAIRMAN: Would you tax their freehold as well?

Mr. THOMPSON: That would be freehold in that case.

Mr. WILKIE: If you capitalize their earnings what is the object of forming a value of the land and improvements?

Mr. THOMPSON: Because in order to get their net earnings you must get the interest on the capital.

Mr. J. S. FULLERTON, Q.C.: Mr. President and gentlemen of the Board, I desire to speak on this question, but this is an entirely new proposition, arises nowhere else—at least nowhere else that we are acquainted with—which has been brought here after three weeks.

The CHAIRMAN: We are open to hear any new proposition.

Mr. FULLERTON: Quite so. This proposition strikes me as specious but not fair, and I would like a little time before being called on to express my views concerning it.

The CHAIRMAN: Do you mean the proposition of Mr. Robinson?

Mr. FULLERTON: Yes.

The CHAIRMAN: I hope you have been considering the whole subject for the last three weeks just as Mr. Robinson has, and have formed some conception of the best principle of taxation.

Mr. FULLERTON: Yes, but that is a very different thing from considering the proposition of taxing on the earnings or receipts. That is something that does not arise on any system of taxation that has ever been debated here. It is something that Mr. Robinson while on his feet was not able to give an example of.

The CHAIRMAN: What we are trying to do is to obtain some system that has not been in operation here and which would be better.

Mr. FULLERTON: I submit that a little time for consideration of this to speak upon it as representing the municipalities would only be reasonable, and I ask for that time.

The CHAIRMAN: To morrow?

Mr. FULLERTON: To-morrow is too soon to allow me to get some documents, papers, figures and matters that I think are important.

The CHAIRMAN: Very well, we will hear you Thursday at 1.30 p.m.

Adjourned at 4 p.m., till to-morrow at 10 30.

SEVENTEENTH DAY—WEDNESDAY, DECEMBER 12TH, 1900.

The Commission met at 10.30 a. m:—Present all the Commissioners. No one being present to address the Commissioners the commission adjourned till to-morrow.

EIGHTEENTH DAY—THURSDAY, DECEMBER 13TH, 1900.

The Commission met at 10.30 a. m. :—Present all the Commissioners except Mr. Wilkie.

The SECRETARY read the following communications: (1) resolution of the County Council of Elgin, (*a*); (2) a communication from the Reeve of North Easthope, (*a*), and one from S. B McCully (*a*)

The SECRETARY then read a communication from Mr. R. G. Barrett, Barrister, Toronto (*b*)

(*a*) See Appendix B. (*b*) See No. 24 in Appendix A.

The CHAIRMAN: I suppose that is so Mr. Fleming, what he complains about as to vacancies?

Mr. FLEMING: Yes, that is the by-law, but I am not certain about the wording of the Act.

Mr. FULLERTON: I think that would be so. I think Mr. Caswell gave an opinion that they were confined to the year.

The CHAIRMAN: A man's store might be vacant within a day of six months consecutively and yet be entitled to no allowance.

Mr. FULLERTON: I think that is so.

The CHAIRMAN: That would seem to be a hardship.

Mr. FULLERTON: It does.

Mr. PRATT: The vacancy must be for three months in one year.

Mr. FULLERTON: The other ground of complaint, that the assessors refuse to consider value other than rental, would not be well taken.

The CHAIRMAN: He complains that he has a lease for twenty-one years. The arbitrators probably fixed that rent for twenty-one years on a sliding scale, making it lower at the beginning in anticipation of a higher value at the end, then in the course of eight or ten years the value of the property falls, falls strikingly, perhaps, as it has done in some cases, yet the owner and tenant are both assessed on the basis of the current rent without regard to the depreciation.

Mr. FLEMING: We never take into consideration the question as to the rent that is paid between the landlord and the lessee. That forms no part of our calculation at all. We simply assess that property at the same rate as the surrounding property. It is just possible, though, that with the high rent a tenant is paying as lessee of the property, that the ground rent and taxes on that property amount to more than he can get from the property; but his complaint would not be against the city, but against the landlord who gets so much more for the ground rent than he can get out of it.

Mr. FULLERTON: That would arise in this way: when he would go up to the Court of Revision and Judge, undoubtedly parties wishing to establish the value would cite the rent.

The CHAIRMAN: But the other circumstances ought to be brought to the attention of the Judge too The tenant would go there and he would show what he has been able to get from the occupying rents. He says, "I have got to pay a higher rent to my landlord, that is my misfortune."

Mr. FULLERTON: That should be so, but in going before the Court of Revision and the Judge many of those cases are disposed of without a lengthy trial, and they are not gone into as they should be in an arbitration.

The CHAIRMAN: Do you mean the appellant would not be listened to?

Mr. FULLERTON: He would be listened to, but his statement as against the decision of the arbitrators——

The CHAIRMAN: Not the arbitrators?

Mr. FULLERTON: The arbitrators had found the rent.

The CHAIRMAN: He says the arbitrators did find that rent ten years ago, but the property has fallen in value since. He says, "I have to pay the land rent for twenty-one years, but here is what I get out of it."

Mr. FULLERTON: I think he would be listened to, I think he would be heard, I think the value of other properties would be heard, experts are called, evidence is taken All I mean to say is that it cannot be taken in ten, or twelve, or fifteen days length that arbitrations go.

The CHAIRMAN: Or fifty days?

Mr. FULLERTON: Or fifty days.

Mr. FLEMING: All we take into consideration is the real value of the property at the time regardless of the lessee, and we assess the whole property in a block at practically the same rate unless one piece is a little more valuable than the other.

The CHAIRMAN: I do not blame the assessor very much; the assessor says to the tenant, "What is your ground rent?" If it is truly answered the assessor might be guided by it.

Mr. FLEMING : We don't even ask that, because we don't take it into consideration, we don't think it is our business. We assess it as a piece of real estate, we don't care whether that man is the owner of it or the lessee.

The CHAIRMAN : But when you are ascertaining the fair value of a property in a particular neighbourhood the rents that are being paid by the occupying tenants are a fair element of consideration.

Mr. FLEMING : Certainly, and that influences us as to what he gets for the improvements that are upon that property.

The CHAIRMAN : The rents of the occupying tenants are really the best criterion ?

Mr. FLEMING : Yes, sir.

The CHAIRMAN : What about the school taxes ? He objects to give a high school education at the public expense ; but that is hardly a matter, I think, that the Commission can deal with.

Mr. FLEMING : A large number of people who have no families complain about paying anything to the schools.

The CHAIRMAN : They complain bitterly about higher education.

Mr. FLEMING : They complain at both ends ; they complain that the schools of Toronto start educating them too young.

The CHAIRMAN : The assessment is something startling, 5½ mills for public schools, unless there has been enormous extravagance and waste in the public school houses.

Mr. BUTLER : It runs about 6 mills in the smaller towns.

Mr. JUSTICE MACMAHON : I suppose where you have to buy a site in the city of Toronto for a school you have to pay a good price for it, because it must be in a locality where it will be convenient for a large number of pupils.

The CHAIRMAN : What is the capital invested in school property in Toronto, and the annual expenditure ?

Mr. FLEMING : I think the annual expenditure is about $600,000. I couldn't tell you the amount invested off-hand.

The CHAIRMAN : Suppose a man has laid out a large piece of land in building lots and they did not sell, he could not have it assessed en bloc afterwards.

Mr. FULLERTON : There is just this about that ; to get relief it has to be in a block, and if it is so that the lots that remain are not in a block then he would not be entitled to relief.

Mr FLEMING : But then he is only assessed at the same rate as his neighbour who has bought the single lots from him.

The CHAIRMAN : There were actually outstanding, for debentures issued for school purposes in Toronto, $2,392,000 in 1896.

Mr. MACKAY : The school property is valued at $1,900,000.

The CHAIRMAN : I suppose the vacant lots ought to be assessed at the same price as the land upon which one of his purchasers has built a house.

Mr. FLEMING : Yes, and that is what is done.

Mr CHAIRMAN : So also a man who has built a house should only be assessed on that land at the value of his vacant land.

Mr. FLEMING : That is right ; that is what is done.

The CHAIRMAN : So that as the law stands now there does not seem to be any grievance in respect of that particular matter.

Mr. FLEMING : No.

The SECRETARY read a petition from a number of farmers in Pickering Police Village. (a)

The CHAIRMAN : That communication has a bearing on the subject before us to-day, that is how the Act in its working affects rural municipalities.

Mr. MACPHERSON : That is very much in the line of the evidence we had here the first day from the farmers.

Mr. MACKAY : That is a matter that is entirely handled by the County Councils, the formation of a police village.

The CHAIRMAN : They can say, contrary to his wish, that so much of A's farm shall be included within the limits of the new village ?

(a) See No. 25 in Appendix A.

Mr. MacKay : Yes.

Mr. Butler : There are some of those old villages a mile square, and that causes great injustice.

The Chairman : That is, if it is done against his wish.

Mr. Butler : It practically is done so.

Mr. Justice MacMahon : In sec. 8 subsec. 2 there is a provision at present. (Reads section.)

The Chairman : It is a very complex problem, and it is left to the Council of the village to decide their own needs. The farmer would not likely get much relief. Would there be an appeal?

Mr. Justice MacMahon : There is an appeal to the County.

Mr. Butler : I think that is working fairly well, too, in smaller places. I think they do practically put it on a farm land basis in valuing. The difficulty is of course in subjecting them to the higher rate in the municipality.

The Chairman : They have no option but to assess them at the same rate?

Mr. Butler : No, but the township may have a five mills rate—there are a number of townships in the Province that have only four or five mills—whereas a village or a town may have 27 or 28 mills; there is where the hardship comes.

Mr. Justice MacMahon : That includes the schools?

Mr. Butler : Yes, all rates.

The Secretary read a letter from Mr. Idington, Q. C., of Stratford—relating to the assessment of commercial travellers (*a*).

Mr. Butler : They must be assessed where they earn the salary.

Mr. MacPherson : But he complains that is unjust, because they are assessed in London for school taxes and their children go to school in Stratford.

Mr. Justice MacMahon : What they pay in London is their income tax.

The Chairman : They are taxed for their dwelling houses where they live.

Mr. MacKay : It is under section 43.

Mr. Butler : Another inequality there is that they appeal against his name being on the voters' list because he is a non-resident. There is taxation without representation. They won't allow you to be on the voters' list because you don't live there. The Judge will strike you off the roll; he did so to me.

The Chairman : He would be entitled to vote where he lived.

Mr. Butler : Yes, but that is out of the municipality.

The Chairman : Suppose he was boarding?

Mr. Butler : Then he would be entitled under his residence to be on the roll; but the point is, where his residence is in one municipality and the income is earned in another, then he pays taxes in two municipalities.

The Chairman : He is on both rolls.

Mr. Butler : He should be, I think, fairly entitled to a vote in both municipalities so far as municipal affairs are concerned, but he is not now.

Mr. MacPherson : Not in political matters?

Mr. Butler : That is under another law; but if he is contributing to the municipal expenditure he should have something to say, but he cannot under the present law.

The Chairman : What is the provision which prevents him from voting in both municipalities?

Mr Butler : He is a non-resident. I have been a sufferer from that provision for five years

The Chairman : Not even for councillor?

Mr Butler : No, the County Judge who held the Court of Revision struck my name off the roll on the ground of non-residence.

The Chairman : You mean off the voters' list?

Mr. Butler : Yes, when I say the roll I mean off the voters' list.

The Secretary read the letter from Mr. Marsh, Q.C., Toronto, in reference to assessment of property under lease from the University. (*a*)

The Chairman : (Reading sec. 23, subsec. 2) That is a vague clause. He is the owner of the property just as any other mortgagor is the owner of his property, and it says he shall be assessed for his interest. He owns the fee; he should be assessed on the fee.

(*a*) See No. 26 in Appendix A. (*b*) See No. 27 in Appendix A.

Mr. JUSTICE MACMAHON: It is evidently intended that whatever interest he has acquired free from encumbrance is to be assessed.

The CHAIRMAN: That is perhaps what was intended, but I am speaking now of what the Legislature has said.

Mr. BUTLER: I suppose the Crown could not lose its interest by selling at a tax sale.

The CHAIRMAN: If the Crown sells to me a piece of land out and out and I give a mortgage for the purchase money I am the owner; that is the extent of my interest.

Mr. MACPHERSON: The full amount you agreed to pay, whether you paid it all down in cash or not?

Mr. FLEMING: That is the view Judge McDougall took.

The CHAIRMAN: He assessed for the full?

Mr. FLEMING: Yes.

Mr. FULLERTON: He wants to be assessed for just the amount he paid to the Government and the balance to be exempt.

The CHAIRMAN: But it is an annual rent in the park; they are all let at a ground rent for 21 or 42 years, or some of them longer?

Mr. FLEMING: Yes.

Mr. BUTLER: Supposing you sold that property for taxes?

The CHAIRMAN: You can only sell an interest at any rate.

Mr. FULLERTON: Sec. 172 has some bearing on the question, also sections 188 and 189. I think the interpretation that has been put on that sec. 23 is the one that you have indicated, Mr. President, that the intention was simply to put him in the position of any other man whose land was mortgaged whether the owner pays the full amount or not. That is the way we have regarded it in the Department.

The CHAIRMAN: It looks as if the tenant in such a case ought to have no advantage different from any private person.

Mr. FULLERTON: I might also say that in the case that has been put before you His Honour Judge McDougall has granted a stated case for the Court of Appeal on this point.

The CHAIRMAN: Then I had better not say anything about it.

Mr. FULLERTON: I understood from Mr. Caswell, who argued the matter before the judge, that he was granted a stated case, and it will likely be before you, Mr. President, in another way.

Mr. JUSTICE MACMAHON: It may be that as the land was not taxable as against the Crown at all that they considered it should not be taxable as against the mortgagor or as against the tenant.

The CHAIRMAN: The exemption of course is a favour to the Crown. It should not extend to the purchaser any more than if he bought from anybody else. He buys at a fair value, and by giving a mortgage for the full amount to the Crown, which they might be induced to take if he gave a little extra interest, he would never pay any taxes at all. The University would be very glad to take a mortgage for the full amount if a man has built a house on it; it would be perfectly safe security, and then the tenant would pay no taxes at all.

Mr. MACPHERSON: At that rate the Crown would very soon be able to sell all its lands.

Mr. JUSTICE MACMAHON: Well, I imagine that would only have reference to the value at which it passes from the Crown to the purchaser. Any additional value put on that by the purchaser of course would be taxed.

The CHAIRMAN: It is covered by the mortgage.

Mr. JUSTICE MACMAHON: It is covered by the mortgage; it is included in the mortgage.

Mr. FULLERTON: The language is, "shall be liable," etc. (Reading sec. 172).

The CHAIRMAN: Is this confined to the Free Grant territory?

Mr. FULLERTON: I do not at present think so. "It may be located as a free grant"—that would seem to be referring to the Free Grant land. I should think free grant there would be liable to have a technical meaning; it would hardly refer to the University, I think; they have not located as free grants.

The CHAIRMAN: I understand Mr. Werden of Etobicoke is present and would desire to address the Commission. We shall be glad to hear you, Mr. Werden.

Mr. Austin Werden: I live in the municipality of Etobicoke, a little west from here, in Mimico, which is an incorporated village, and I am doing a little grocery and provision business there. I have found it necessary to appeal against my assessment for a couple of years back—did not think I was just exactly rightly treated there by the assessor, and I appealed from the Court of Revision, which you know is made up of members of the Council here, to the Judge.

The Chairman: It was the assessment by the township municipality?

Mr. Werden: Yes. I took the trouble to have some valuators out there, Mr. Joselin and Mr. Boyle from the city; they made a valuation and the matter came up before the judge, and he did not grant me relief; he seemed to see a great irregularity and injustice in the assessment, but he seemed to shield himself behind the Court of Revision and said he did not want to disturb what they had done, leaving the only remedy in the hands of a person who thinks they are improperly assessed to make the Council so that they would appoint an assessor who would do what is just and right. He did not grant me any relief. I recollect well there one property that Mr. Joselin valued, it stood on 198 feet by 198 feet with a fine brick house. The owner did not dispute that the property cost over $4,000, but it was assessed at only $1,000. I bought a property from the Merchants' Bank there; it had a summer house on it; I bought it for $350 and the assessor assessed it at $400. Well, I thought I was highly assessed there, and we compared those properties, but as I say the judge granted me no relief whatever. In Mimico I own a few lots; I bought some at a tax sale; and the lots there with say 30 feet frontage by 130 or 150 feet deep are assessed through at $50; then you go into plans where the lots are as large as 60 feet frontage by as much depth and they are assessed at the same price, still $50. Now where this land is not required at all for building purposes and is garden ground, I think that that land should be assessed as garden or farm land. I have three lots there that comprise about half an acre which is assessed at $100 for the three together. The assessor did assess them at $150, but representing it to the Court of Revision they struck $50 off. Now, within a stone's throw, 300 feet, I know a man there who has 24 acres of ground that he had all surveyed out in building lots. He has sold some of the lots off, but he has not found the land available for sale, and he has let it go back into farm land. That land is assessed at $70 or $75 an acre. Now why should I, at a distance of only 200 or 300 feet, be assessed $100 for three lots there, and this man, because he owns more land, 24 acres, be assessed at $70 an acre?

The Chairman: Your three lots contain about a third of an acre?

Mr. Werden: About half an acre. I think that ten acre clause ought to be wiped out. I think the assessor ought to assess all these lots there as farm or garden lands anyway. Another thing that I think is an injustice is this: You take a merchant doing business out in the country at cross roads or wherever he chances by the road side to start a store, and I cannot see why the assessor should come in and assess his stock, and his very next door neighbour, a farmer, perhaps holding wheat in his barn, that has grain for three or four years past, or perhaps twenty head of fat cattle, expensive farm implements and all that kind of thing, goes scot free. I cannot see why a grocer that has a few hundred dollars stock in his store should be assessed. Then in the Township of Etobicoke we have an enormous high tax rate, nearly $3 of taxes to pay on $100 of assessment.

The Chairman: Including school tax?

Mr. Werden: Oh, including every tax, the township rate, the county rate.

The Chairman: How much is the school tax?

Mr. Werden: Well, I couldn't just speak now.

The Chairman: That must be because a new school-house has been erected in that neighbourhood.

Mr. Fullerton: Yes, that is so.

Mr. Werden: Yes, there is a new school-house there. I think the school rate is about 70 cents on the $100.

The Chairman: Until that is paid for you will have to pay a high school rate.

Mr. Werden: Oh well, the general assessment there is away too low.

The Chairman: There are many cases in which this school tax exceeds the ordinary township and county rate, everything else put together, where a new school-house has been built.

Mr. WERDEN: I wrote out a check for $50 odd on an assessment of $2,100. That would make about $2.70 a hundred. I think that the assessment law ought to be made very plain, if it is not. It is plain for me to read, but it seems as though when you get before the Court of Revision and the Judge, he don't see it that way. I think the assessor ought to be made to live up to the law.

The CHAIRMAN: What is the section relating to the ten-acre clause?

Mr. BUTLER: Sec. 29, subsec. 2.

The CHAIRMAN: Is this land you speak of in a village?

Mr. WERDEN: Well, you might call it a village, I suppose. There are some few people there. It is unincorporated. I think that restriction or limit of ten acres ought to be abolished. Why a poor man that has only one lot should pay as much as a man on an acre or more I cannot understand; I can see no justice in it.

The CHAIRMAN: The assessor must have thought that if you were going to sell these lots of yours that you could get $100 for them; that must be the principle on which he went; that is what the statute says.

Mr. WERDEN: Well, I recollect that I offered to sell these lots at $50 but they would not buy them once.

The CHAIRMAN: $50 apiece?

Mr. WERDEN: $50 the whole thing, the half acre.

The CHAIRMAN: The clause is not very clear. Your neighbour who has been assessed lower than you are must have had a block left of more than ten acres.

Mr. WERDEN: Yes, he has about 24 acres.

The CHAIRMAN: So he would be assessed as for farm land.

Mr. WERDEN: Yes.

The CHAIRMAN: The principle the assessor was bound to apply to you was this: He should have valued your land at the value at which sales of it could be freely made.

Mr. WERDEN: You cannot sell it at all. There is lot after lot sold there every year for taxes.

The CHAIRMAN: Then if no sale could be made there is no provision for it at all.

Mr. JUSTICE MACMAHON: Assess it as farm land.

The CHAIRMAN: No, that is only where it exceeds ten acres. A block exceeding ten acres is specially provided for, but there is no provision made for the case of a single lot when sales of it cannot be freely made. If sales can be freely made that is to be the principle, but if no sales can be freely made then there is no provision at all.

Mr. BUTLER: The assessor has just got to use his judgment.

The CHAIRMAN: He must then put a fair value upon it. It looks as if the assessor was not using you rightly, Mr. Werden. The law itself as it reads does not seem to press against you. The Judge may have gone wrong, the Court of Revision may have gone wrong, but you say the law ought to be made clear.

Mr. WERDEN: He did not seem to want to touch it; he seemed to think the only remedy he had was through the Council, getting a council that would appoint a different assessor.

The CHAIRMAN: (reading the clause) If the assessor thinks your lot could be sold now within the present year if you chose to put it up, then he has to put that value on it, what it would fetch; if he does not think it could be sold within the present year then there is no provision.

Mr. WERDEN: The value seems to cut no figure, for I offered for 10 acres of that 24 acres, $150 an acre, and the owner would not sell it, and he would not raise his assessment either.

Mr. PRATT: Would you have given him that for the whole of it?

Mr. WERDEN: Oh well, I had not money enough.

Mr. PRATT: If you had money enough?

Mr. WERDEN: Yes, I would. It is a very much more desirable property than this of mine.

The CHAIRMAN: And it is assessed for how much?

Mr. WERDEN: 24½ acres, assessed for $1,800, that would be about $75 an acre.

The CHAIRMAN: You think you have been treated unjustly, unequally by the taxation of your grocery stock?

Mr. WERDEN: Yes.

The CHAIRMAN: Inasmuch as the farmers' produce in his granary and his farm stock and implements are exempt while your stock is taxed.

Mr. WERDEN: I think that in an unincorporated village where there is no personal assessment except to storekeepers, I think that that should not be.

The CHAIRMAN: And the other point is your village lots.

Mr. WERDEN: Yes. I think that the clause that would keep the assessor from assessing these lots as farm or garden lots ought to be wiped out, and I think that the law, whatever it is, in regard to assessing ought to be very plain so that a man could have some remedy beside changing the whole Council or something of this kind to get a change in the assessor.

The CHAIRMAN: Did the Court of Revision think that they could not give you any relief in respect to your vacant lot as the law stands?

Mr. WERDEN: Well, he assessed those three lots at $50 apiece and they were reduced to $100.

The CHAIRMAN: Did they think that your lots were more valuable acre by acre than the 24?

Mr. WERDEN: They did not know anything about the lots; they did not reside there

The CHAIRMAN: Had you any evidence before them?

Mr. WERDEN: I did, I went to great pains to have evidence there, I had valuators from Toronto.

The CHAIRMAN: Why didn't they give you relief? Was it because they thought the Statute did not allow them to do it?

Mr. WERDEN: Well, I would judge that to be so.

Mr. JUSTICE MACMAHON: Mr. Werden was offering $150 an acre for the 10 acres out of that 24.

The CHAIRMAN: Well, they should have put up the assessment. Did you appeal against the assessment of the 24 acres?

Mr. WERDEN: I did; I appealed two years against it as decidedly too low.

Mr. JUSTICE MACMAHON: They would not put it up, but they kept his at the proper figures, assuming that what he was offering for the 10 acres out of the 24 was some evidence of the value of his own, and that is the way they looked at it.

The CHAIRMAN: Then they should have gone further.

Mr. JUSTICE MACMAHON: Yes, they should have put up the assessment of the 24 acres.

Mr. WERDEN: That is quite right, what the Judge says, but I would like him to understand that this land that is assessed at $75 an acre is more desirable than this property I have. These lots lie in the ravine, and they are not just nice at all. Mr. Werrett was my solicitor at the time, and he brought the matter before the Judge; and I will have him write to the Chairman here.

Mr. PRATT: Perhaps your lots are in the business parts of the village?

Mr. WERDEN: There is no business part to it. My lots are back off the main street. They have no way of draining, no sewer there.

Mr. PRATT: Do you think you could do as much business if you were back on the 24 acres?

Mr. WERDEN: I don't see why I could not.

The Commission adjourned at one o'clock till 1 30 to then resume as arranged on 11th Dec., the subject of the Taxation of Companies operating franchises.

At 1.30 P.M.:—Present all the Commissioners.

Mr. J. S. FULLERTON Q C.: Mr. President and Gentlemen of the Board, I have to thank you for the short time you have given me to look into some facts and figures to enable me to answer the four very, to my mind at least, very remarkable speeches, and the very remarkable propositions put before you by the gentlemen representing the Companies on last Tuesday. I confess that those arguments and speeches seem to me ever more remarkable for what they did not contain than for what they did; because while the proposition which must have a very considerable effect of taxation, increase or reduce

their taxation, and thus increase or reduce the amount that other persons have to pay was urged at great length and with great ability, not one figure was given to this Committee, not one fact other than argument was given to this Committee to show what would be the result on communities, municipalities or the country at large. That being so, for the purposes of drawing comparison and for getting at results I am unable to deal with this except within the very narrow limits of what I have been able to look at within the city of Toronto; and for the purpose of comparison and result I have, as far as I have been able to go, extracted three or four Companies that will show you the results so far as those are concerned. In the first place allow me to reiterate what has been on more than one occasion suggested here, that so far as possible no system of taxation can be a proper system which is not equal and just. My learned friend, Mr. Robinson, rather challenged those who are supporting another system to large fault-finding, and said that if we found fault with this system that he could find a good deal more fault with any that we would propose. I don't intend to go into a long list, but I want to make the one fault-finding, the one charge, and that I think is the important charge, that the system he proposes is unjust, unfair, discriminates in favour of those whom he represents, and therefore against all the rest of the community. That being so, it is not unreasonable that it was difficult to find places where this law had been adopted; but I do observe by the World this morning that it has been adopted, or some such system has been adopted, in the State of Michigan, and that Governor Pingree of the State of Michigan is calling the Legislature together for the purpose of considering its abolition and substituting something more fair and more reasonable in its place; and possibly the Board could obtain information from the State of Michigan of the reason why Governor Pingree is taking action to do away with this system of taxation which apparently, according to that note, has prevailed there. Now allow me just for a moment to suggest comparisons. I hear one of my learned friends suggesting that Pingree is a crank, and he is probably correct; but it is the patient men who will submit to these burdens, it is the galled steed and sometimes it is the cranky one that winces and lets you know where the pinch, the trouble, comes in, and possibly Governor Pingree is right material for that purpose. Let me institute a comparison A farmer owns a farm worth $12,000. I think those of you who know something about farming will say I am giving a fair estimate when I say that the gross earnings of that farm will be about $1500, a year about twelve and a half per cent. On his farm he would pay, at twenty mills, $240. On his gross earnings reduced to $900, or sixty per cent. he would pay, at twenty mills, $18. You have $240 in the one case against $18 in the other. If you take a house owned for renting purposes worth $5000 put it at a very high rental, $400, in the one case at twenty mills he will pay $100, in the other case at sixty per cent. of $400 he pays on $240, $4.80. Practically one man pays on full value; the other pays on five per cent. of full value, or six per cent. or seven per cent. or something not exceeding ten per cent. That is the status, that is the basis of taxation that has been suggested here, that has been proposed as being a fair and equitable basis of taxation for corporations such as these that my learned friends represent. Now is there, can there be, any good reason why A should pay on the full value of his property while B should pay on one-twentieth of his property? My learned friend, Mr. Douglass, in stating the four things that we allege against companies that he thought were unfair mentioned as one—rather that embraces two—that they were treated as monopolies and not treated as individuals or as co-partnerships or as other corporations were treated. If they are not I submit the true and distinct reason is that in matters of taxation, matters that affect themselves, they cling together and ask to be treated in a different and separate way from what individuals are treated, and this is one of them. Now without following all the lines of argument for the moment that were advanced by my learned friends, let me take up one. I understood my learned friend, Mr. Robinson, to say that the franchises, or some of them, in the companies he represented were terminable, and that by agreement at the end of the franchise the proper and only method by which the plant should be valued was the scrap basis. Mr. Robinson illustrated that by referring to the case of Toronto vs Toronto Railway Co. which went as far as the Privy Council. I would have been pleased to have heard Mr. Robinson, who was, I believe, acting for the city in that case, if he had not argued but had stated that that was a scrap iron valuation. I was not in the case; I have read all the judgments; I have heard it commented on, and the only comment I have ever heard is that so far as the city was concerned they paid half a million

more than they ought on any fair valuation of the property— not that they paid on the scrap basis, and I do not even find that suggested or indicated in any of the judgments. The clause on which that would be determined you will find set out in the Privy Council case which begins in Appeal Cases 1893 at p. 511, and the clause is set out at p. 513, and I won't trouble you as I want to read one or two other existing clauses, themselves now as extinct as the Dodo, and therefore of not a great deal of interest, and I just want to show without reading that, what was said about it in the Court of Appeal where the leading judgment was delivered by the President of this Board. I will only read two very short extracts. On p. 137 of 20 Appeal Reports I find these words :—"If this had been a devise for 50 years or 100 years with the power to the lessor to put an end to it at the end of 30 years"—

The CHAIRMAN : It should be "demise."

Mr. FULLERTON : It should be "demise" of course. I am reading as it is here, it is "devise" here—"on payment of the value of the unexpired term and of the other property of the lessee there would be an interest in the land to be valued and paid for; but here the Company is asking payment for what never belonged to them." And on p. 139, "The case is like as if a land owner should demise land to a tenant for a term of years with the privilege of building and erecting a mill thereon, the landlord to have the privilege of assuming the ownership of the mill at the end of the term and paying its value." Now, that is the illustration that is taken and used. Has it ever been dreamed that where a lease was granted to build, a lease for 21 years with power to build, with the right to the lessor to take over at the end of 21 years and pay for the property, that if it was a house he paid for it as boards and nails or bricks and mortar, or if a mill that he paid for it as so much torn down and displaced stuff? Surely that has never been the case, and surely that was not the case in this particular case; and I did not understand my learned friend to say that that was so, but only to argue that that would be the conclusion or the form of the agreement, and I submit that that is not so, and I submit that there is no agreement that I know of that is in that form I am speaking now only for the City of Toronto, for I have not elsewhere to deal with. Now in the present agreement with the Street Railway, which was drawn with the most careful desire to prevent us from being called upon to pay for the franchise, and which had the sanction of most eminent counsel, I think it is clearly provided against in favour of the Company, but providing that the City shall only pay for the undertaking as a railway undertaking and as fit for a railway undertaking, not for something that is not fit for use as it then stands. Reading the words that apply to this only—

Mr. JUSTICE MACMAHON : For myself I should think there would be no other way of dealing with it. Supposing the railway two years before the franchise expired put down new rails over the line, it could not be said to be scrap iron, it must be for the purposes of the undertaking.

Mr. FULLERTON : And we take the undertaking over for the purpose of completing the undertaking.

Mr. JUSTICE MACMAHON : What was said is, the agreement does not provide for taking it over as a going concern, but it is no use taking it over in any other way.

Mr. FULLERTON : As I understood the argument to be made, it was made as being applicable to all or a large number of those companies; and the Board will remember that Mr. O'Brien adopted it and stated that his Company was in the position of a terminable company and therefore would be approaching the scrap iron basis towards the end of the term. I want to say that in both these cases these gentlemen are mistaken as to the effect of that, and therefore one of the arguments does not apply. The clause I read is very short; I refer you to 55 Vict. ch. 99, (Ont.) sec. 4, subsec. 3, the last half of the clause, and subsecs. 4 and 5 of the same clause :—"In determining such value the rights and privileges granted by said agreement and the revenue, profits and dividends being or likely to be derived from the enterprise are not to be taken into consideration, but the arbitrators are to consider only the actual value of the actual and tangible property, plant, equipments, and works connected with and necessary to the operation of the railways which is not to include any land, property or rights acquired or used in connection with the said street railway, and which do not actually form a part of the said street railway undertaking necessary to the carrying on of the same." Subsec. 4; "In arriving at such value the arbitrators are to consider and award only the value of the said

particulars to the City at the time of the arbitration, having regard to the requirements of a railway of the best kind" . . . Is it possible to say that where these things we are to take over are to be considered with regard to a railway of the best kind, that we are to deal with them as scrap? And then in subsec. 5; "In the event of the city at the expiration of the thirty years in the first section of this Act mentioned, not exercising its right to take over the real and personal property necessary to be used in connection with the working of the said railways, the City may, at the expiration of any succeeding year thereafter, exercise such right upon giving not less than six months' notice to the Company, and the privileges of the Company shall continue until the City exercises such right; provided always that whenever the City shall exercise such right of taking over the said property the provisions for determining the value thereof herein contained shall apply in the same manner as if the City had exercised its right at the expiration of the said period of thirty years." Now it did occur to me that in making that argument—

Mr. ROBINSON: What argument?

Mr. FULLERTON: Making the argument my learned friend did that the property had reference to the agreement that I am now speaking of or to the incandescent light agreement, which is in identically the same words as clause 6 of the electric light agreement with the city, the material words of which are:—"shall pay for all the interests and assets of the company, personalty, plant and buildings and material used or necessary for the carrying on of its business, and the amount in such case to be paid," &c. So that so far as any agreements with the city are concerned there is no such terminable franchise which would allow the property of the companies to be taken over by the city at any time on a scrap basis or any other basis than its fair value as that of a concern that is itself going and to be used as such. But what we have endeavoured, and I hope successfully, to guard against is that we shall not be called upon to pay for the franchise, whatever that may be worth. And here perhaps I may illustrate what I mean by that, by saying to you that while our taxation of the property of the Toronto Railway Co. has been a very small taxation, amounting at the present basis to $731,217, that is $640,005 for realty and $91,218 for tracks and plant—that according to their own estimate that is indeed a very conservative taxation, for I hold in my hand their statement of this year to the shareholders and perhaps to the public, and I find they set out these as their assets:—"Road and equipment, real estate and buildings, including the pavements and suburban lines, $10,089 953 01"—showing that so far as the city is concerned our taxation, although it has been far from a burdensome taxation, that we have confined ourselves very much within the amount for which they ought to be taxed unless there is in this a very large sum for franchise, which perhaps there is. I should also point out that "pavements and suburban lines"—pavements I do not understand—there is a claim pending for old pavements which they say they ought to be paid for, which has been denied them in the Court of Appeal and is on the way to the Privy Council, which might amount to $25,000, but their claim may amount to $200 000; what it means or what it will result in I do not pretend to say, but $200,000 would be a very large sum in any event. In reference to the pavements which they allege they have paid for, that would be another question to be decided, but it would be a very small amount in relation to the $10 000,000. The suburban lines will not be over 12 or 20 miles, and allowing $7000 a mile, the utmost would be $14,000. Those two claims would still leave nearly $10,000,000 if we took them out, showing that we are assessing, as far as they were concerned, in a very moderate way indeed. There is just one thing further I want to say on this point. It was urged with great earnestness by some of the speakers that you could not sever the plant from the franchise; when you dealt with one you must deal with the other, and that you could not value the plant at what it is worth without valuing the franchise. Now I submit that no such difficulty arises. I own a piece of land; I ask a man to put a house on that land; I get my estimates; I get the house built; there is no difficulty in severing the value of land from value of a house. The house is torn down; I want to replace it; quite easy to ascertain what is to be done. Apply that to a railway or a gas plant or electric light or any of these companies. The whole equipment on the road, the plant, is removed; you ask for tenders; the cost of putting it there is the cost of material and the cost of workmanship. Surely that represents its reasonable value as long as that is a concern that is working. If the franchise is worth 10 millions or $10,000 the cost of plant makes no difference, and the only difficulty that can possibly arise is where the time

comes that the franchise is no longer of any value or something less than value, because then it would no longer be used for railway ; then it may become scrap. Usually in the assessments we don't have to deal with that. I notice that Mr. O'Brien gave several cases where mostly railways, if not all railways, were in the hands of the sheriff Possibly some questions might arise there and they might have to be dealt with on a different basis from a concern that was running, but the same difficulty will arise with a house. You go to a village—and I have seen it illustrated in Toronto to a limited extent—where a number of houses had become vacant because the population has moved away ; there is nobody to inhabit them ; they have ceased to be of value because nobody wants them ; the franchise, if I may use that word, has become of little or no value, and the house has ceased to be useful as a house and therefore it must be valued as something less. Now all these things occur in everything else as well as in these companies, and there is no difficulty in applying the same rule to a house that you apply to a company. There is no difficulty in ascertaining the value of the plant as distinct from the value of the franchise, that is so long as that exists as a company. I propose at a later stage and under another head to call your attention to where this question is illustrated and worked out in the judgment of the Supreme Court of the United States by Mr. Justice Miller, but I will not read that at the moment but will pass on to some other phases of this question. My learned friend, Mr. Robinson put one illustration which I thought was hardly fairly worked out to its ultimate result, that of taxation of the King Street merchant and the merchant on the side street, and the reason given by the King Street merchant for his higher prices would be his higher taxes. Surely that cannot be so If so, you would go at once to the merchant on the side street, as you have no interest in paying the King Street merchant's taxes. I think if you ask the reason why you go to him the answer would be along this line : " He keeps better material, he has better workmen, he has better style, I am sure of getting a good thing, he is also more convenient, and I am willing to pay big prices for these reasons." There is possibly a difference in taxes, difference in rent—these other differences occur as incidentals—but when you throw that all on the question of taxes you are surely deducting all the others which are the main reasons why you go to one and don't go to the other. Now another reason—and I think this reason was raised by three if not four of the speakers in favour of those companies being lightly taxed—was in the origin of them ; they came as experiments ; they came at a time between the candle dip and the gas light—between gas light and electricity ; we more or less invited them to come. But is not that answered by this : every one of those companies have been formed and promoted by the best business men of the community, men who are not philanthropists, and who did not do that with a philanthropic object alone. I won't say that in many cases good men did not go into them who were willing to make their money as useful to the public as possible, but in just as many cases men went into these who were willing to make every cent that their dollar would turn over, and the result was they made with the municipalities, who were perhaps yielding, who were perhaps anxious, who were perhaps desirous as my learned friends say of getting them in—they made with the municipalities, in every instance, the best bargain they could. But I did not hear it urged by any one of my friends that we were violating any bargain or agreement in reference to taxation. It reminds me of David Harum's saying about one of his friends : he said he had done him a great many favours and nat'lly the man looked for more ; because we have in the past given them a great many advantages, given them a great deal free, allowed them to get in a position to make money, now they think they should get off, not be taxed on their full dollar, but be taxed on one-fifteenth or one-twentieth. I submit the reason is not one that is capable of being sustained or not one that is right. Now just let me take up one more argument made by my learned friend, Mr. Robinson, I think, who put the question, " Is it right to tax a capable man ?" Now, surely that is not what we are desiring ; that is not our proposition, I think that is rather his You take two water companies, both of the same capital, both with the same opportunities ; you put one manager into one and you get a large income ; you put another manager into the other and you get no income. If you tax on income you are taxing capacity ; if you tax on property you are taxing what the two companies own ; and whether the one does well or does ill you are taxing what he has, what he ought to pay on ; you are not taxing, as my learned friend put it, brains,

but you are taxing the property that the man has, with the opportunity to use it; and I submit that the proposition we make, to tax all in that way, is a fair proposition; but we should not discriminate so as to tax mere brains alone. I followed my learned friends with the hope and desire that they would give us reasons for their standard on results, their basis, the principle that they wished to arrive at, that net earnings alone should be taxed. I do not remember that Mr. Robinson gave reasons for; I do remember that he gave reasons against. I think he largely assumed that net earnings was the proper basis of taxation of these companies; and if the farmer was taxed on his income, the merchant was taxed on his income, the owner of money alone was taxed on his income, and all others were taxed on their income, I think there would be a great deal of force in saying that the income is a proper basis of taxation. But when we find everybody else, I think I may say without exception, only taxed on their income in addition to all other taxation, why should these people whom my learned friends represent be taken out of all the other classes and pay taxes on their income only and let their whole real estate and their whole personalty escape?—tax but one-fifteenth or one-twentieth and let all the rest go? If that is reasonable, if that is just, if that is fair, if that commends itself to the good common sense of this Board, then the proposition is one that ought to be carried; if that is unjust and unfair, then it is one that should not be countenanced and should not be carried out. Now, I just want to point to some of the facts in the city of Toronto. First take the Consumers' Gas Co. I will give you the real property assessment for this year because it was the only one I had handy, while I am estimating their receipts as of last year—I think I am correct in saying that there is no material difference in taking one in one year and the other in the other. Their real property assessment is $1,025,214; their assessment on plant as consented to by them and which is not as low as it could be reduced under the Bell Telephone judgment is $250,000 making a total assessment of $1,275 214. The taxes on that at the present rate, 19 mills on the dollar are $24,866. Now, the gross earnings of the Company as shown by their own published statement for the year ending October 1st, 1899, were $691,509. Sixty per cent. on this is $414,905, and the taxes at the same rate are $8,091. The loss to the city in the change from the present so-called scrap iron basis assessment to this proposed assessment would be $15,775 annually.

Mr. KINGSMILL: They are not assessed on the scrap iron basis.

Mr. FULLERTON: I think Mr. Kingsmill is probably right in suggesting that that is not the full effect of the scrap iron basis. They came down from $550,000 to $250,000 by consent after the so-called scrap iron judgment, the first being the proper amount also agreed on by consent, and for one year after the judgment they allowed it to remain at $500,000. Now if you add to this the loss by reason of the judgment that I speak of, the loss we experience in this Company alone would be $21,625; or the passage of this law changing the taxation would be equivalent to, computing 4 per cent. to a present of $500,000 to the Gas Co. of Toronto at the expense of the city—a little over that. I submit that that would be dealing fairly hardly with the citizens. I want before leaving the Gas Co to point out this, that we were not at any time dealing at all harshly with the Gas Co. I have before me a statement in the action pending as to what is the real and actual money put into their plant—I won't say value, that might be possibly an error—and I find under the four heads, cost of land, cost of works, cost of plant, cost of buildings, taking the total—there you will observe that those are all taxable things under the law as it is at present—I find, after deducting a trifle over $300,000 for depreciation, the total is $2,685,754.70, which seems to me as properly and reasonably open for taxation if we had at any time pressed our values to the extreme. There is no franchise included in that, nothing of franchise in that, and if you take it on that basis you will observe that they get rid of all the possibilities of taxation on that, with the privilege of buying and using a great deal more real estate, because the proposition as I understand it would lump all this taxation in one sum, gross earnings, and rid them of all other taxation. Now I pass on to the Toronto Railway Co. whose real property assessment is $640,005. The assessment of plant, I mean the rails, poles, wires, etc., is $91,212, making a total of $731,217. Our tax on that is $14,258. The gross earnings of the Company, as shown by a statement I hold in my hand, are $1 333 542. Sixty per cent. on this, $800,125, taxes at 19½ mills on this, $15,602; so that we gain apparently a trifle there on the law as it stands under the Bell

Telephone judgment. Of course when I refer you to the fact that their property within the city of Toronto, which is, or we think ought to be, liable to assessment, unless franchise is concealed in that, is that large sum, if they have $10,000,000, you will see that our loss is a great deal more. In the case of the street railway, as I pointed out to you before, the Company have 86.87 miles of track which at the value agreed upon between the assessors and the Company, $6,300 per mile, at which the assessment is being made, gave $547,281, and the tax on that was $8,894 that we lost by the Bell Telephone judgment, so that our loss would be thus admitted, as it has been admitted by my learned friend, Mr. Robinson, by my learned friend, Mr. Bicknell, by every person who has spoken before this Board, if we admit that the principle which the Bell Telephone judgment brings into vogue is wrong—I do not for a moment say that the judgment is wrong on the facts that came before the court—our loss so far as that railway is concerned is $7,590.

Mr. WILKIE: Do you say that the difference between the taxes on the scrap iron assessment and on what you had before agreed upon is only $7,590?

Mr. FULLERTON: It is $8,894, and then the other figures were these: we gain by taking gross earnings instead of the present assessment $1,304—so that our whole loss taking the proposed gross earnings, the loss by that and the scrap loss is $7,590. I will hand in copies of this in such a state that they will be easy to follow. In the meantime I want to just deal with them as they are. Now the next I call your attention to is the Toronto Electric Light Co. and the Incandescent Light Co. Their real property assessment is $338,325.

The CHAIRMAN: Are they one company?

Mr. FULLERTON: They are in this position now—

The CHAIRMAN: You treat them as one for the purpose of your argument?

Mr. FULLERTON: We are treating them as one for the purposes of these statements, and as a matter of fact they have one Board of Directors.

The CHAIRMAN: That is immaterial.

Mr FULLERTON: It becomes material, I will deal with that directly. The total assessment is $659,325 at present, and the taxes are $13,442. Their gross earnings for the year ending December 31st, 1899, were $352,389. Sixty per cent. on this $211,733 take taxes on that at the same rate, taxes are $4 129, or a loss to the city on that proposition so far as this Company is concerned of $9,313.

Mr. WILKIE: Is that on the scrap iron basis?

Mr. FULLERTON: I am taking the real property assessment and the scrap iron assessment together.

Mr. MACMURCHY: We were told the assessment was $470,000.

Mr. FULLERTON: Mr. Forman, will you give Mr. MacMurchy the exact figures? So that we also add to that loss the loss by the Bell Telephone judgment assessment, $5,850, making our total loss between the two on those companies, $15,163. Now I next mention the Bell Telephone Co., which stands in a little different position perhaps for this reason, that they own but a small amount of real estate. Their real estate assessment is $42,903, their plant as assessed is $90,000, making a total assessment of $132,903; their taxes $2,591; their gross earnings for twelve months as estimated by the manager, and obtained by Mr. Forman from him yesterday, $300,000; 60 per cent. of this $180,000 making taxes on that basis $3,510, showing a gain to the city of $919. Now on one other point in regard to this company I am not able to be as exact in the figures as I would like to be. It was complained by Mr. Lynch-Staunton that the newspapers and others had used the statement made by Mr. Lash when the Bell Telephone Co. were desiring to raise the price of telephones before Mr. Blair, the chairman of the Railway Committee. As I followed the statement at the time the amount Mr. Lash said that had been expended in the city of Toronto was in the neighbourhood of $900,000, or $700,000 to $900,000—the words he used admitted of some difference of calculation—but I think it is only fair to say that in putting that, Mr. Lash was not putting the present value of the property. I have never thought he intended that. What he did intend was to give the reason why Toronto should pay more, because so much had been expended in putting in different plants here that had turned out useless. We then hired what was represented to us as an expert to find out the value of the plant in the city of Toronto, and his figures were something over $600,000. I have always thought that our

expert, after taking the examinations of the experts they brought here to prove the value of scrap—and I must admit that Mr. Staunton was quite correct when he told us that he inundated us with the greatest experts in the United States to prove what was the value of their scrap—I thought he went to a great deal of unnecessary expense, but that was the fact—I have always thought that a fair taxation of their property would be about $500,000 if it had been assessed at their value outside of the Bell Telephone judgment. I am putting that in round numbers; that is the most candid and careful result we can arrive at under these circumstances As it is, that is assessed at $90 000, and we estimate it at $150,000; that lost $7,995 by that judgment. Now summarizing these, let me give you the results of losses. If the gross earnings came in we would lose, over the assessment as it is carried on to-day, $23,825 in these four companies That would be the loss to the city of Toronto on the present assessment. The loss to us by the scrap iron assessment was $28,549; so that the total loss that we have, in a word, is $51,454. My learned friends come to this Board and say the present taxation is unfair, the present taxation should not be continued, and then they propose to us another system of taxation which adds to the loss of this system of taxation the sum of $23,825, nearly $24,000. The irony of the thing is the sweet words they come with. They come blaming the present rate, telling us it is unfair, they would not for a moment think of forcing that on us, but they have something else that is just the sugar pill that will cure the ills of Toronto and all the rest of the municipalities, and they offer us something that will add just another loss of $23,000 odd. Is it a wonder that the newspapers of Toronto and the people of Toronto suspect the gifts of the Greeks, and look for trouble rather than for good in anything that comes from that source? Now I want to say a word or two along the line that was argued by my learned friend, Mr Douglas, in which he spoke of four popular errors in regard to companies, and of course foremost among them all was the question of monopoly I have admitted, I frankly admit, that no company in Toronto that I know of, has a monopoly except the Toronto Railway Company. They have an exclusive privilege, but they have an exclusive privilege in which, as Mr. Hellmuth pointed out in London, they are tied down to particular fares, and in which we have made, I do not think a good bargain, perhaps the best bargain that I know of that has been made with a railway company. But while that is true, I do say that in effect and in its results they are all monopolies, every one of them. Let me illustrate with the Bell Telephone Co. Some enterprising citizens in Peterborough, not satisfied with the rates they were being charged by the Bell Telephone people, started a rival company. They got their plant, they got their phones in, they arranged their prices. The Bell Telephone cut under them. The result was that the prices in Peterborough went down to a dollar a year for a telephone The result was that the enterprising citizens were slaughtered; they could not go on. They managed to sell out and save something, and the Bell Telephone Co. became the proprietors of their plant and machinery. The same occurred in the city of Detroit; the Detroit Telephone Co. reached as high as 6,000 subscribers, but I am told by Mr. Baker of Hamilton, of the Bell Telephone Co, they are no longer in existence, and they are the owners of their plant because they were unable to make headway against the prices the Bell Telephone Co. cut under them at. I do not say Mr. Baker told me that last; I know though, that the prices at which the Bell Telephone Co. were selling at the time I investigated the matter was $1 and more less than the prices the Detroit Co. were charging. The result was that what was not a monopoly swallowed its rival. Follow me for one moment till I illustrate that a little further, and let us get at the basis on which the Bell Telephone Co. stands. They came to Ontario, to New Brunswick, Nova Scotia, to Manitoba; they formed companies; 48 per cent. went into the local subscribers; 52 per cent. was held by the mother company across the line; the whole control of that is in the mother company. I do not know whether that is water or whether it is paid-for stock; I do not pretend to say; I have not the information that will lead to that, but the fact of the distribution I have on good authority. The result is that that stock is controlled, that the companies are controlled and managed all over the United States and all over the Dominion of Canada as one company in effect. The result is that a rival company starting at any particular place does not fight the Bell Telephone Co. in that place, it fights the whole Bell Telephone Co. of North America, and for that matter I believe the whole Bell Telephone Co. of the world, for I believe they have extended through Europe or part of Europe at any rate, on the same basis. Now while

this is not a legal monopoly, it is idle to say it is not a monopoly in effect, in result ; and no company is likely to test results such as they had at Peterborough. I heard this proposition put: In a jungle in India there lived a large constrictor and he was enjoying the business all alone, and another constrictor, smaller in size, came over to help him, and he swallowed him, and he then put out on the boundaries, " I have no monopoly of this business ; any other constrictor can have this business if he cares to come along and try it." No monopoly, legal right, but it is impossible to do it—it is impossible to come. Let me illustrate that by a case that is actually in existence, that actually is creating a great deal of trouble and a great deal of difficulty. In the city of London there are seven water companies. Municipal Affairs for June of last year in an article written by Eli Leroy Maltby which gives much information as to how these companies work, gives these particulars :

" Parliament intended when the companies were formed that there should be competition among them, and depended upon this factor and the provision, usually inserted, limiting the average profits to ten per cent, to keep prices within moderate bounds and to insure an adequate and pure supply. The areas do in fact over-lap, and in theory the citizen has the privilege of purchasing from two or more companies. But as seems to be the inevitable result, competition does not in fact exist except in a very diluted form. The companies have so apportioned the area that each has a definite, well defined district, the invasion of which by any other company would be a breach of corporate etiquette. Thus, instead of competition, there is monopoly; no legal monopoly, but a virtual monopoly, which is equally disastrous. Parliament has the power to sanction the formation of new companies, but such a plan would only afford an excellent opportunity to injure existing companies, and would find arrayed against it the combined forces of "vested interests." The history of London contains many instances of the formation of new companies to compete with the old, but they have never reduced prices or secured better service. For a few years, such a fierce rivalry would spring that Parliament would be called upon to sanction an amalgamation. If they were unsuccessful in securing legal consolidation, the companies would make terms among themselves. In one instance an advance of twenty-five per cent in water rates was the result. Even the staid *Saturday Review* went so far as to say: A great portion of London must go unwashed, and its thirst unslaked, and its drains unflushed, lest the dividends go down."

That is the Water Company of London. Now I turn for another moment to an attempt made in Toronto, and in the Incandescent Light agreement and in the Electric Light agreement we had a clause inserted which we hoped would be of some value. That clause is in these five lines: " The company shall not without the consent of the corporation, lease to, amalgamate with, or sell out to another company, corporation, firm or individual, and in case the Company shall lease to, amalgamate with or sell out to any other firm, corporation or individual without such consent, the rights granted by this agreement shall cease and be forfeited." Now, what we have to-day is the same directors existing in both companies, the same rates and prices charged by both companies, both companies though, still in corporate existence, without having amalgamated, without having sold out, they are just running along together. They have accomplished the result, they believe they have done it legally, possibly they have, but the result is there is no monopoly in the city of Toronto, and yet there is no opposition. Now just a word or two more. While I am forced to admit that in all these companies—and the application of this extends far beyond Toronto, extends to other places as well as Toronto, although my experience there will not enable me to speak for them in the same manner that I speak for Toronto—I think it will be found that so far as these companies are concerned they have virtually a monopoly, and they use it in that way. The year before last, 62 Vict. ch. 26, sec 35, for fear that municipalities might be able to rebel and on their own account introduce water companies—water companies were barred before that—electric light companies, or heat or power companies, that Act was passed, and it provides that before a municipality can start a private light, heat or power company, they must first offer a price to the existing company for the whole, but if the municipality intends only to confine itself wholly to the lighting of the public streets it can limit its price to that, so that to-day before a municipality can on its own account set out its own plant for public lighting of its own streets, it must buy out any of these companies existing in the municipality. If it intends to go into commercial purposes it must buy out the whole or

offer to buy out the whole and be refused, after which refusal it can go on and establish its own plant. So that we are tied up as municipalities, and of course if individuals should go they would start the competition spoken of. Now one of the arguments pressed with a great deal of force by Mr. Douglas and some other speakers was that the maximum rate of taxation would mean ruin to a great many of the 72 companies he represented I thought it singular that all these companies with able municipal men among them, able representatives among themselves, should in each instance be represented by a lawyer who can be instructed and be made their mouthpiece for what they want to say, and who does not know because he is not informed of what they do not want to say, and therefore we get the maximum of information that was desirable to give, and we get the minimum of information that it is not desirable to give. If Mr. Douglas had enforced that point by telling us of the 72 companies, that such a company had so much property paid, so much dividend, and such a result would follow, and had left that so that we could get the information and criticise it, then the argument might have been of some value. It was offered by my learned friend, Mr. Robinson, to give the Commission some information, or such information as the Commission might ask for, but that information to be secret for purposes of the Commission. I submit that no information but what is open to be criticised and examined, and the municipalities to be heard from and dealt with, can be of value to this Commission; and when my learned friend did not give one single instance, not one, of a company that would be ruined or affected or its dividends brought down, or what would be unfair by reason of taxation, that argument must and does fall to the ground. I do not know in Toronto of such a case. It is quite true when I say that no instances of that kind were given. Several insolvent street railways were mentioned and directly pointed out that they had fallen I suppose it must always be the case that where railways engage in a place that is so small that no able bodied citizen needs the railway to go from any one point to any other, it cannot be a success. They undertake that possibly with the idea of teaching the people, as my learned friend, Mr. Osler, once put it, to abandon the unnecessary habit of walking, and failed. My learned friend, Mr. MacMurchy, corrects me, "pernicious" habit; that is a great deal better. That being so these companies are no fair criterion of the companies that are existing and going on. These were the experiments that failed. What we ought to have heard from were the 72 that succeeded. Men whose property is in the sheriff's hands, do not trouble feeing lawyers about their taxes. It is men whose property is not in the sheriff's hands, whose franchise is valuable, whose property is worth something, who take that position; and therefore when none of these figures are given and none of the people come here and no questions can be asked because the men who can give the information are not here, I submit that what they give you is very feeble material. Now we have asked for a very low, very reasonable taxation—I am speaking now on behalf of Mr. MacKelcan who represents the municipalities, and myself representing Toronto. What we have said is, give us the property you have that is tangible and in sight, that is easy to be got at, that there is no difficulty to find. We don't want to be oppressive, but you have your buildings and land, you have your plant on the streets, you have all these that we can see, we think you ought to amend section 39, subsec. 2, and assess their personal property, that is the change, but we ask first, get rid of the Bell Telephone assessment, admittedly on all hands wrong, and put us back where we were. We were not complaining; we were only getting what we thought was something approaching what was reasonable. And then we say in addition to that, make a second amendment and assess these companies on their personalty, and then we will have what is right, what the large, the greater portion of the community pay on. I did not understand my learned friend, Mr. Lynch Staunton, when he stated that the Bell Telephone Co., running through municipalities was assessed amidst exemptions. Why, they are assessed only on their poles and wires at scrap value, and every farm along there is assessed on its value or what he thinks its value. The exemption in this case is not to the farmer but is to the Bell Telephone Co. The man that is paying is the farmer, for the Bell Telephone Co. is practically if not always paying almost nothing. I have had difficulty in satisfying myself that the moderation with which we proceed is right as a matter of justice to the rest of the community. Probably the proper basis, the reasonable basis, is the basis that is being reached out for all over the United States, the full assessment value of their property including their franchise; and on that point I wish to direct the attention of the

Board to what seems to me the strongest pronunciation and the most reasonable rule and judgment that can be offered to you. I am referring now to the judgment of the Supreme Court of the United States in Vol. 92, Taylor vs. Secor, beginning at p. 575 and continuing to p. 618, year 1875. You will find it referred to in vol. 154, p. 429, in the United States Reports, judgment of Mr. Justice Brewer. Judge Miller says:

"The rule adopted by the Board is as follows: First—The market or fair cash value of the shares of capital stock, and the market or fair cash value of the debt (excluding from such debt the indebtedness for current expenses), shall be combined or added together, and the aggregate amount so ascertained shall be taken and held to be the fair cash value of the capital stock, including the franchise, respectively, of such companies and associations. Second—From the aggregate amount ascertained as aforesaid, there shall be deducted the aggregate amount of the equalized or assessed valuation of all the tangible property, respectively, of such companies and associations (such equalized or assessed valuation being taken, in each case, as the same may be determined by the equalization or assessment of property by this Board), and the amount remaining in each case, if any, shall be taken and held to be the amount and fair cash value of the capital stock, including the franchise, which this Board is required by law to assess, respectively, against companies and associations now or hereafter created under the laws of this State."

Now, let me illustrate that. Take a particular case, a railway, for instance, and say it has a mortgage indebtedness of $2,000 000, and its stock at the market rate is worth $4,000,000. It is evident that the mortgage must be realized before the stock can be realized, so that the value of the stock and the mortgage added together give us the whole value of the enterprise, which would be $6,000,000. Then you take from that whatever they are otherwise assessed at, for material, whatever it may be, because this includes the whole, and the result is the amount to assess them at. That is what I understand those two propositions to mean.

"It may be assumed for all practical purposes, and it is perhaps absolutely true, that every railroad company in Illinois has a bonded indebtedness secured by one or more mortgages. The parties who deal in such bonds are generally keen and far sighted men, and most careful in their investments. Hence the value which these securities hold in market is one of the truest criteria, as far as it goes, of the value of the road as a security for the payment of those bonds. The mortgages are, however, liens on the road, and taking precedence of the shares of the stockholder, may or may not extinguish the value of his shares. They must, in any event, affect that value to the exact amount of the aggregate debts; for all that goes to pay that debt and its interest diminishes *pro tanto* the dividend of the shareholder and the value of his share. It is therefore obvious that, when you have ascertained the current cash value of the whole funded debt, and current cash value of the entire number of shares, you have, by the action of those who above all others can best estimate it, ascertained the true value of the road, all its property, its capital stock and its franchises; for these are all represented by the value of its bonded debt and of the shares of its capital stock. This would of itself be, perhaps, the fairest basis of taxation for the State at large, if all railroads were solvent and paid the interest promptly on their funded debt. But this has never been the case in Illinois; and it is doubtful if this happy state of affairs is likely to prevail soon in that or any other State in the Union. If taxes were assessable alone on the value of the capital stock and franchises of the corporation, cases might be found where these were worth nothing, and such companies would pay no tax even for their real estate and personal property. And this is precisely the main argument of counsel for the Toledo, Peoria & Warsaw Railroad Company, in opposition to the law and to the rule of the Board of Equalization. But individuals do not escape taxation on their real and personal property because they are insolvent. In several of the states many men, in effect, pay tax on their lots or lands, and on the mortgage which covers it and exceeds it in value and on a large amount of personal property, while the mortgage debt exceeds in amount all that they are worth in the world. No State has ventured to establish the principle of permitting its visible, tangible property to escape taxation, relying solely on a tax imposed on the individual on the basis of his estimated wealth in excess of his debts. The system adopted by the statute of Illinois, and the rule of the Board of Equalization, preserve this principle of taxing all the tangible property at its value, and taxing the capital stock and franchise at their value, if there be any, after deducting the value of the tangible property. The case

of the Toledo, Peoria & Warsaw Company, as we have said, are used as an illustration of the inequality which this rule works, and which counsel say is forbidden by the Constitution of the State, thus rendering the tax assessed against it void. That company is insolvent, and in the hands of a receiver. It is unable to pay any interest on its bonds. Its capital stock is of no value. But the Board of equalization assessed the capital stock and franchise at $2,003,415, and its tangible property at $2,629,367, thus assessing a property which pays but little, if anything beyond its running expenses, at the sum of $4,632 782. This sounds plausible; but it is nothing more. Concede for the present that the capital stock is sunk and is of no value; concede that the funded debt of the company has at present no market value, or is unsaleable; there remains what is valued as worth over $2,600,000 of real and personal property which, like all other property of individuals or corporations, ought to pay its proportion of the public burdens."

Then we find, if this judgment be sound, that there is high authority for saying that the franchise valuation and taxation on that basis and by that principle is proper, that it is easily enforced, that it has all the virtues that my learned friends claim for theirs—that of being easily got at—and if it were to go from the basis of tangible property, property that we can get at—and that is the general foundation, the basis of our whole system—then I take it the proper course and the proper mode of assessment would be to take this property at what it is worth including the franchise and to assess them on that. If the Board sees its way clear to that I am not imposing objections to that, but what we ask for was what we thought was the basis of the present taxation. Put them on the same basis as the rest of the people; don't make any difference between the corporations and the poor man, the man who earns his dollar a day. Because they get 8 per cent. on their money, 10 per cent. on their money, 15 per cent. on their money, we are not going to deal with them differently from others. This was the ground with which we would be satisfied; but if the basis of one fifteenth or one-twentieth of the amount they are worth is to be taken, and then 60 per cent. of that is to be taken, then, as one of the reporters in the Globe this morning credits me as saying, it is like whittling the little end of nothing down to a point—and if I said it I do not think I was far wrong. It was really getting it down to a disappearing issue, to a tax that practically amounts to nothing, to letting those men escape from under that burden of taxation and putting it somewhere else. I do want to say that if these companies are to place themselves in that position, are coming to us with offers of that character, are going to face the storm that has been raised in Toronto and elsewhere because of their unequal taxation with others, it is no wonder that they are dealt with and that people will cry out against them as they do That is not the warning that has been sent forth by the people of the country. That is not what they have been asking for. They have been asking, so far as these companies are concerned, for taxation that looks something like bread, and the offer they come to us with looks remarkably like a stone. I do not know that there is anything else that I can add that will illustrate the principle. I have endeavoured to put the main points of it before you as they strike me, and I say in conclusion that this offer which has been made is one that is unfair, that is inequitable, that does not put the burden of taxation where it ought to be. That is the objection to it, that is the reason why it is not acceptable to us, and I say that it should not by this Board or by any Parliament or by any representatives be forced upon the people as a part of a taxation system so that one portion of the community for no sufficient reason should be let off on paying one-twentieth while the rest pay on the whole. I might perhaps be permitted to say this; it is a matter of course entirely for the Board, but it struck me when we first came before this Board that any scheme that Mr. MacKelcan had was very fully outlined; that Mr. Robinson got great time to reply to that in behalf of the companies, and I was granted time to reply to him. I see him sharpening his pencil, and I suppose he now seeks on behalf of the companies the last word; that is of course entirely for the Board to say.

Mr. ROBINSON: I am not sharpening my pencil; I have not got a pencil. (Laughter)

Mr. FULLERTON: I mean his mental pencil, it is a very sharp one always.

The CHAIRMAN: We are going to hear anybody who is willing and desirous of saying anything to us. It is not a case of plaintiff and defendant here. We are seeking for information; we are desirous of having it as extensive and full and complete as it can

be, no matter what quarter it is coming from. You may speak half a dozen times on the same subject if you have anything new, Mr. Fullerton. (a)

Mr. FULLERTON: I have observed while the Board has been in session the painstaking, careful, thoughtful manner in which every man has been helped out. I have nothing more to say on that score. I thank you for the patience you have shown me as well as the others.

The CHAIRMAN: Does anyone else desire to speak?

Mr. HUTTON: My Chairman and Gentlemen of the Commission I hadn't thought of coming down to say anything more until I saw the proposition made by Mr. Robinson on behalf of the corporations as something better than the scrap iron decision, which he had not a good word for, when he appeared before you with his proposition to pay, in lieu of all real estate taxation, on 60 per cent. of the gross earnings of those corporations. It was only last night that I noticed that, and I have only had a very short time to look the matter up to see how it would strike Hamilton, as apparently, the gentlemen of Toronto have been looking the matter up to see how it would strike Toronto, and to find out whether the proposition which he makes would be better for the cities, whether we would get any more taxes or whether we would get any less.

The CHAIRMAN: It is not a question of getting any more or less; it is a question who shall contribute all you want. You want a certain amount of money; you have got to get it; the question is from whom you are to get it.

Mr. HUTTON: Well, I will put it in that way, as to whether they would be paying their fair share under the proposition of Mr. Robinson. In speaking before he admitted that the scrap iron decision was wrong, and in so far as that was wrong they were not paying their fair share of the taxes, and I take it from that that if under the new proposition they would pay less, they would still be paying a greater amount less than their fair share of the taxes. In the case of the Gas Company of Hamilton, they are now paying on $124,500 on their real estate and $60,000 on their street plant, a total of $184,500. Their gross earnings are in the neighbourhood of $100,000 a year. The last statement which I was unable to get was $96 000, that is two years old; I understand that it is not increased very much because gas has been lowered in price. That taxation of $184,500 is on a plant on which they show to have expended $335,388; so that even on the present basis they were not burdened with taxation, and under the new proposition instead of paying on $184,500, they would pay in the neighbourhood of $60,000; a reduction of $124,500 in that one item. The Street Railway Company pay now on $62,000, $43,000 of which is realty, $19,000 of which is street plant. Their gross receipts last year were $132,366, making their contribution under the proposed proposition $79,420. We would gain in that case apparently $17,000 odd in assessment. This on a plant on which has been expended upwards of $700 000. Taking that plant at $6300 a mile which was the agreed amount between the Company and Toronto and the Assessment Department, and which we take as a fair basis, it would have been $119,700 for their street plant, in addition to which they have $100,000 or more of personal property; and I may say that before this scrap iron decision came in and they were enabled to take advantage of the personal property clause under the decision deciding that the rails, etc. were realty, and that they were able to come in under the section which enables them to not pay on the personal property on account of investing the whole in the real estate that they bought, their assessment was $25 000 more than they are paying us at the present time, because they paid us on $50,000 of personalty. So that under the proposition as now put forth by Mr. Robinson we would still be $25,000 less than we were before the litigation first started. The Bell Telephone Co, I was not able to get their gross earnings of last year, but in their statement made to the Dominion Government when they were seeking to raise their rates, I find on page 7 that in the City of Ottawa where they had 1176 subscribers, they said that the revenue contributed by each subscriber was $31.37. We have 1300 telephones in Hamilton, and I have put them at $35 each, which would give their revenue in Hamilton as $45,500. I do not know whether that is absolutely correct or not, but that is compiled from their statement that way, which would make their contribution $27,300. They pay now on $17,000 realty and $10,000 street plant, making in that case a small gain of $300 taxable property. But under the decision delivered by the Board of Judges, from which there was an appeal, and out of which came the scrap iron decision, the assessment placed

(a) Subsequently Mr. Fullerton handed in the statement No. 28 in Appendix A. shewing the effect of the Supplementary Revenue Act, 62 V. c. 8 (Ont.), (amended 63 V. c. 6) upon the city of Toronto.

by that Board in one ward alone was $13 000 odd, and we have now $10,000 on the whole city of seven wards. Of course the ward that the case was in was the largest ward, at least the largest value, but in that evidence we omitted putting in the underground work, and we cut out a very large portion thereby; so that even under that, while they would be paying us a small additional amount, and perhaps it is a little larger than here shown, I think yet it would not be anything like bringing it up to what we think it ought to be under a fair value, and that value, I think, was very clearly laid down by the Board of County Judges in their verdict, that the value should be taken as a going concern, what it would cost to replace, less ordinary expense for wear and tear which they estimated at 15 per cent. Then there is the Cataract Power Co., which owns everything in the electric and street railway line in Hamilton. I have given you the street railway part which they own. For their light and power plant they are assessed in Hamilton on $28,100 realty, and $82,000 street plant, making a total of $110,100. Their gross earnings last year as got from Mr. Patterson this morning, were $160 000, making their contribution under the new proposition $96,000; a difference of about $14,000. But this $96,000 contribution would cover the whole of their plant, and they have a very large plant in the surrounding municipalities For the plant outside of Hamilton they are assessed over $200,000, so that you see for the assessment which now stands at $310,000 they would only pay $96,000, spread over Hamilton and the municipalities to the east of it. These are the figures, and figuring that out and giving credit to the companies where it appears that they would pay a little more even under the scrap iron decision we would lose somewhere in the neighbourhood of $3500 a year in taxes.

The CHAIRMAN: That is to say, you would lose if from them?

Mr. HUTTON: We would lose it from them, we would have to make it from somebody else.

The CHAIRMAN: It might be fair—Mr. Robinson says it is.

Mr. HUTTON: Well, I respectfully submit that I do not think it is. I do not think these colossal companies that have their millions invested in real estate should be treated any different from what any gentleman would be who would have his millions invested in real estate. He would be quite willing, if he put a million dollars in houses and lands, for you to assess him only 60 per cent. of what they brought in, their gross revenue.

The CHAIRMAN: Suppose you did, perhaps that would be fair for him too.

Mr. HUTTON: Well, what I say is that that might be fair, and that if it was adopted in both cases, treat the company and the individual exactly the same.

The CHAIRMAN: Then it would be a question of rate.

Mr. HUTTON: It would be a question of rate, and one would pay exactly the same as the other.

The CHAIRMAN: Would you like that plan? Would that be a desirable plan?

Mr. HUTTON: I do not think it would be as desirable as the present; I do not think it would work out as well.

The CHAIRMAN: Why?

Mr. HUTTON: Well, for the reason that I understand it was tried some years ago, before I was in the Assessment Department, and was abandoned.

The CHAIRMAN: Gross earnings of the man who has got a store and has let it are easily ascertainable, and in most other cases.

Mr. HUTTON: But I fail to see the connection between gross earnings and value. There might be some connection between net earnings and value, but there certainly is not any connection between gross earnings and value. For instance, last year in London they had a strike; the revenue of the London Street Railway was practically nil, and yet the municipality paid more for the protection of the property of the London Street Railway in one month than they paid in any other municipality in a year.

Mr. KINGSMILL: According to all accounts they did not protect it.

Mr. HUTTON: But their revenue in that year was practically nil. Was their value nil because they did not get the revenue? Certainly not. I think that there should not be any difference.

The CHAIRMAN: When a man's house is vacant for part of a year, you give him a reduction.

Mr. HUTTON: He gets a small reduction, 2 per cent. a month of the assessment on the building alone, with us. What we are contending for is not that there should be any

discrimination, and not that there should be any new method to introduce in assessment, but apply the same rule to the company's property as is applied to the individual As far as the real estate is concerned nobody has contended here that the assessment of real estate should be on a different basis from what it is at present, and all we contend is that the assessment of the property of these properties should be on the same basis, and that the value should be as a going concern the same as we value any man's house and lot. I do not think there is any difficulty about ascertaining it. There would probably be a little controversy on the start, but once it was ascertained I do not think there would be any trouble in carrying it along.

The CHAIRMAN: How would you assess the express companies?—they have an office and they have got a horse or two perhaps.

Mr. HUTTON: Well, we assess all their personal property. They pay a couple of thousand dollars for the few horses they have in Hamilton.

The CHAIRMAN: And their furniture?

Mr. HUTTON: And their furniture; we assess all that is in sight there.

The CHAIRMAN: And their office?

Mr. HUTTON: And their office.

The CHAIRMAN: You think that is sufficient?

Mr. HUTTON: Well, I do not know but what it is. I do not know postively whether they are assessable on anything for income.

The CHAIRMAN: Suppose their gross earnings were two or three hundred thousand dollars, as it might be?

Mr. HUTTON: Well, they would be assessable on income, and should be, if they don't pay otherwise.

The CHAIRMAN: That is the way you would get at it?

Mr. HUTTON: That is the way, yes sir. Was that one of the companies that came under the present discussion to day, the Express Co?

Mr. ROBINSON: No, I did not mention it.

The CHAIRMAN: It is the kind of company we have to consider; we would like to get what light we can.

Mr. HUTTON: I did not consider that, and it was just sprung on me at the moment. I think that is all we have to say. I might say that the citizens in Hamilton this morning and yesterday, after the proposition came out and it was found how it would work out, were very much disappointed, because they had understood from Mr. Robinson's statement before that what he was going to offer was something that would certainly be better, out of which the municipalities would get some more revenue than at present; but when it was worked out and they found it was still sliding down, they were up in arms, to use a mild term, and the newspapers, every paper that has been published since, has more than railed against the proposition, and I think it is one that if any Government were to adopt—

The CHAIRMAN: A certain amount of fairness about it at first sight, isn't there?

Mr. HUTTON: I cannot see it at all.

The CHAIRMAN: That a man should contribute to the expenses in the municipality in which he lives according to his earnings, does not that look pretty fair?

Mr. HUTTON: Well, it is not the basis of the assessment on real estate.

The CHAIRMAN: We are not speaking of the existing system at all; we are endeavouring to find out the very best system of all, where we can improve the law.

Mr. HUTTON: Well, I do not think that would be an improvement to start to make discrimination of that kind. As I said before I cannot see any connection between gross earnings and value, because they vary very much, and it is largely as Mr. Fullerton said, a tax on capacity then.

The CHAIRMAN: Why should a man contribute according to value rather than upon earnings?

Mr. HUTTON: Because that is wealth, and all wealth should pay.

The CHAIRMAN: Why should one be the criterion rather than the other?

Mr. HUTTON: Well, because in this case you put it on the real estate because you cannot move it away; you can always see that, it is always there, and they cannot move that to Toronto or Montreal or anywhere else, and that appears to be acknowledged as one of the best bases for arriving at the revenue.

The CHAIRMAN: You do not seem to be very successful in reaching the personal estate.

Mr. HUTTON: No, we do not; we tried it again this week but we got beat

Mr. BUTLER: Should not taxation be based somewhat on the services furnished to the tax paying person by the municipality? Would not that be an equitable principle? Should not that be the measure of it?

Mr. HUTTON: It should be a measure, a very large measure, but of course in the assessment of these Companies the fact of them being on the streets and easily accessible is largely the way they get their revenue, hence the real estate basis is best.

Mr BUTLER: Do you try to assess that way—to reach the basis of service rendered?

Mr. HUTTON: Under the present law it is not so

Mr. BUTLER: Does not it strike you that that would be the equitable way to do it?

Mr. HUTTON: Well, it would be very hard to determine.

Mr. BUTLER: If there were any tangible property that would not be receiving any benefit from the municipality, then it should not be taxed.

Mr. HUTTON: No.

The CHAIRMAN: We are very much obliged to you, Mr. Hutton. Is there anyone else?

Mr. WILKIE: Mr. Fullerton, I would like to ask you regarding the scrap iron assessment of the Toronto Railway Co. Is the understanding that when the railway is taken over at the end of the period of thirty years that the valuation is to be of the road as a going concern without a valuation of franchise; or only a valuation as to material?

Mr. FULLERTON: As to material only, not franchise.

Mr. WILKIE: So it is on a different basis from the other companies you speak of?

Mr. FULLERTON: No I don't think so. I hope not. I hope that so far as the Electric Light Co is concerned if we take that over we will only pay for the material. When I say material I mean material in position, plant. I think that is the result of the document I have been reading. We do not propose to pay for the franchise.

The CHAIRMAN: The material in position and intended to be used immediately?

Mr FULLERTON: We take them over intending to use them.

Mr. JUSTICE MACMAHON: That is the object in all of them, to take them over intending to continue them as a railway.

Mr. WILKIE: Suppose it was proposed to change the guage of the railway so as to make it the same as a steam railway, what is the value of the material in position?

Mr. FULLERTON: Under the ruling case, in arriving at the value the arbitrators are to consider and award such price to the city at the time of the valuation having regard to a railway of the best kind. So that if a steam railway with the steam cars to run on was considered by the arbitrators on the evidence to be the best kind of railway and the railway that reasonably ought to be used, then it seems to me that if these rails had to be discarded I do not think they would be scrap, for this reason: if they were used elsewhere and a market was for them, they could be sold on the market for what they would bring.

Mr WILKIE: That is scrap.

Mr. FULLERTON: Well, scrap, as the word has been used in connection with our cases, is rather something that went on the iron heap, not something that was fit for use again, and it has been used in that sense. When they spoke of scrap it was something that was to be melted over again and run over, and Mr. Ewan Mackenzie strongly contended that there was no market for the Toronto rails because no road up to the present time had discarded these rails and therefore no market had been created for them. I did not read that evidence to the Commission, but I had it here and it was thought at the moment that that was not necessary, but no doubt under that clause a good deal of what the railway is using would be fit for a first class railway and may become either scrap or secondhand material.

Mr WILKIE: So there is a difference between their contention and the contention of other Companies?

Mr. FULLERTON: There may be. This is a special agreement. Each Company that has a special agreement of course would be judged under that agreement.

Mr. JUSTICE MACMAHON: Under that agreement the city would take over the cars if they were first-class cars.

Mr. WILKIE: Supposing their gauge would not answer a new road?

Mr. JUSTICE MACMAHON: The road that the corporation intended to inaugurate in place of this one?

Mr. WILKIE: Yes.

Mr. JUSTICE MACMAHON: I think under that agreement they are subject to take over this road as a road, and the equipment that is there fit for this road if it is a first-class road.

Mr. WILKIE: That is the point on which I wanted Mr. Fullerton's opinion.

Mr. FULLERTON: Suppose we got something away beyond electricity, and that was thrown out?

Mr. JUSTICE MACMAHON: If you used compressed air, for instance?

Mr. FULLERTON; Compressed air or some magic power that has not yet been discovered and may be, and this kind of road was discarded, we are providing for that.

Mr. WILKIE: We are discussing what bearing that has on the present taxing of the property.

Mr. FULLERTON: Assuming this road to be reasonably the kind of road that would be used, then we have to pay for the road intending to take it over to be used for this road.

Mr. WILKIE: Have you any right now to suppose that the property will be worth that when taken over?

Mr. FULLERTON: I think for the purposes of this case that we have every right to suppose it. The question that you raise, it seems to me, must be a mere supposition of some future event that we cannot prognosticate now. If it was taken over to morrow, for anything I can see at present we would have to pay for it, but there are possibilities that we have by the agreement provided for.

Mr. WILKIE: Your present contention is in favour of the high valuation for taxation purposes, but if it came later on to a valuation for purchase purposes, the argument might be different?

Mr. FULLERTON: I think that is hardly a fair way of putting it, if you will pardon me. Our present position is that it should be reasonably valued at what it is worth in that position for its present purposes, at the value we would have to pay for it if we took it over to-day. In the future if these occurrences arise before our time to take it over and it becomes scrap, they ought to be taxed on that scrap which is taken over. What they put in place of it and what we would have to pay for should be valued at what it is worth.

Mr. FLEMING: So that the assessment to-day has nothing to do with what it may be worth twenty years hence. The city does not claim there is any connection at all.

The CHAIRMAN: Is there anyone else desiring to be heard in opposition to the view which has been put forward by the Companies? We will hear any such person if there is any.

Mr. MACKELCAN: I do not desire to add anything to what I said the other day, the subject having been so very fully and ably covered by Mr. Fullerton in his very interesting address. I entirely agree with the views that he has so forcibly put before you, and I think these views will commend themselves to any body of men who thoroughly consider the arguments that have been advanced; and I think it would be very disastrous in its results so far as the financial condition of many civic municipalities is concerned if the plans proposed by these companies should be recommended or adopted by the Commission. All that we desire is that the basis of taxation should remain the same as it is at present, with the removal of these inequalities that have arisen through possible expressions that have found their way into the statutes which have had an effect that was in all probability never contemplated by the framers of the Act. If the assessment law is put upon such a basis that all property, whether belonging to individuals or the companies, shall be assessed upon the same basis, that would be giving us the principle of equality for which we are contending. At present we say that these companies occupy a position with regard to the subject of assessment that is entirely unfair as compared with the liability of individuals and their property to assessment for municipal purposes.

Mr. FULLERTON: Permit me to say one word on the question you asked Mr. Hutton in regard to the feasibility of assessing all parties by income. The question will no doubt be easily answered by the Assessment Commissioners; but has not the result of experience been to show that gross earnings and income are the most difficult of all kinds of property

to get at and discover, to learn? Take the farmer for instance. If there be a law it should apply to all. He has so many hogs, so much cattle, so much butter, so much eggs, so much poultry, so much grain, raised by himself, marketed by himself—keeps no books. How can any assessor get at his gross earnings? Would it be possible? If that is right, there is one-half of the community that you must practically take their statement in reference to it without being able to gauge it. You take a large portion of the income from other sources—gross earnings of money that during the whole discussion here it has been pointed out has been impossible to be reached. One of the great difficulties I thought had been found in taxing farmers was the difficulty of getting at that income. Take the mechanics, take the working classes, the men who now pay something. It may be easier to get at men that are paid by days' wage—no, not the days' wage, the numbers of days they are employed would be almost impossible to learn; the only class you would come down to would be those that had a gross earning and kept books, or those who had a salary and whose salary could be ascertained. I venture to say to-day if you took the lawyers of the City of Toronto that what appears on the assessment book is no fair criterion of their earnings. For the purpose of to-day's argument, and I will mention no names, I started to make inquiry at the Assessment Department about one man, and they said, "Don't continue it, it is not put down at all in accordance with the amount he has, and it would not show fairly," and I went no farther. I had a doctor speak to me the other day wanting me to appeal to the Assessment Department because he said they had got him too high. I did not go into details, nor will he go into details. All that is something that must be the veriest guesswork, and it seems to me for that reason, and for that reason alone, the system, though it would perhaps be of all systems if not the fairest a very fair one, is impossible to work out in its general application. Then being impossible to work out in a general application it is not fair to apply it to one class where it makes it one-fifteenth of the amount only of the tax that is paid by others.

The CHAIRMAN: I take it for granted that no one desires to speak on the other side further.

Mr. CHRISTOPHER ROBINSON, Q.C.: My learned friends seem, to my apprehension at least, to have overlooked to a considerable extent the purpose and design of our appearing before this Commission, and the object which the Commission have in view. My learned friend, Mr. Fullerton, rather ridiculed us because they expected great things from us and thought we were going to offer them something very nice in the way of an increase in taxation, and had not done it. I had not the slightest intention of offering an increase. The only thing I had in view was to submit to the Commission a fair system that would apply to these Companies if we are going to change the law. That is all I attempted to support then and all I attempt to support now. I do not enter into the sort of taunt we had about trying to get off the rich corporations taxes on to the poor man who earned a dollar a day and had to pay it, because the best contradiction of all that is the Assessment Act itself. The truth is the poor man in this country hardly pays anything except just upon his lot of land on which he lives. You will find that incomes up to $700 a year are exempt, all the household furniture is exempt, all the chattels, stock and horses, etc., are exempt, and almost everything in that way is exempt, and nobody complains of it. Whether it does them any good is quite another question. I saw the other day in reading about this matter in some author, I forget now who at this moment, that England was generally spoken of as a sort of Paradise for the poor man in the way of taxation because he paid little or nothing, the taxes did not touch him; but they said, "What is the result? The result is that England is a country of comparatively high prices." That is it; the taxes fall upon the producers who supply the poor man. That is undoubtedly the result of letting off one class, it undoubtedly comes back on him in one shape or another. I need not go into the suggestion I made of the shop on the by-street, which was not answered by Mr. Fullerton, because we all know where you can get the same article, you buy precisely the same thing at a price less than you can get it in the leading shop in the place. I do not mean to say the taxes make all the difference, but I mean to say that the man who pays comparatively little taxes and rent can sell you the same article at a price less than the man who lives on a better street and pays a higher rent and higher taxes. It is not a question as to its being better—on the contrary I should think ninety-nine people out of a hundred would prefer to go to the King

Street place—but they go there for the reason I have mentioned. About the only thing that could be said in answer to the undoubted fact that the Bell Telephone Co. will pay a good deal more under this system was that which my learned friend represented, that the Bell Telephone was practically a monopoly; and the way it is a monopoly he says is that being a very large corporation, having control of that business by reason of the enormous capital they have invested in it, they will either buy out or crush down any opposition to them. Well, of course, unfortunately every man in large business pursues that system systematically, we all know that perfectly well. But does any lawyer contend that that gives him a legal monopoly? You get a man who has several millions in any particular business and start another man against him with a few hundred thousands, and he will undersell him until he has ruined him; but to say that therefore the man with the millions has a legal monopoly of his business is to say what we know is no argument at all because it is not based on fact.

Mr. JUSTICE MACMAHON: It often happens, you know, that where there is a supposed monopoly a corporation starts and gets in a sort of working order in order that they may be bought out by the octopus.

Mr. ROBINSON: Yes, that is not uncommon by any manner of means.

Mr. JUSTICE MACMAHON: They say that every oil company that ever started has been swallowed up by the Standard Oil Co.

Mr. ROBINSON: Yes, and in that sense they are monopolies. But we are talking about legal monopolies. To say that that company is a legal monopoly for which they should be taxed, I venture to say it is ridiculous, that is all I can say. I do not mean to say they have no monopoly; we know very well that a great many similiar companies are started—

The CHAIRMAN: I understood Mr. Fullerton to say that the Street Railway Co. was the only one that had a legal monopoly, that the Bell Telephone Co. had a practical monopoly.

Mr. ROBINSON: If it only has a practical monopoly, that does not affect the question of taxation at all. You cannot tax them as for a monopoly in the shape of franchise by reason of the fact that the size of their business and other facilities give them a practical monopoly; that is all I have to say about that. Now the question really is what is the fairest system to apply for the purposes of taxation to companies of this description? All I can assert is, if the system is in itself fair, if it is right, if looking at it all round it is the most equitable system that you can adopt, and if the result of it is to show that in certain municipalities these companies would pay more than they now do, it will simply show that they have been paying too much up to the present time, that is all. I do not say whether they have or not, but you cannot draw any other sensible inference from it. You have got to adopt a system and see whether it is fair, and if it is fair for one municipality or another, or one city or another, then it is one of the consequences of adopting a fair system. Now my learned friends, both of them, as I understand, have nothing to suggest in the shape of improvement of the present system except to get rid of the scrap iron assessment. Well, if the Commission are going to adopt that, I have very little more to say. I assume that any Commission desiring to inquire into the best system of taxation and to recommend not a change that will tinker up the present law and make it work along somehow, but a change to a system which they think that a country like this would be best advised to adopt, I apprehend that it is of some importance to them to find out what has been the result of experience as to the system under which we have been going for so long. Now I would just read to you one or two sentences, possibly very familiar to you, as to what is said upon the present system applied universally—I mean the system of taxing all real and personal property at its fair value. I do not myself see that there is any difficulty at all in dealing with the corporations such as I represent on a different principle from that on which you deal with others, because they are dealt differently by our own statute. There are special provisions in regard to the taxation of railway companies, special provisions in other respects, and if it is the right principle and the best principle to make them pay what they ought to contribute towards the general taxes I see no reason whatever why it should not be adopted with regard to them though you cannot definitely adopt it or properly adopt it with regard to individuals; but as to adopting that system altogether I find for instance in the report of the Wisconsin Tax Commission in 1898 a quotation from the report of the New York Commission in 1870.

I find this sentence on page 172, quoting from the report of the New York Commission on taxes, and they speak there because they go very fully into the system adopted by other States, and they are now speaking of the system adopted in the State of New York and what the Commission there has thought of it:—"The conclusion arrived at is that the present system reaches but a small part of the mass of personal property; that it is inequitable and inefficient to the last degree; that it could only been forced by measures so drastic and inquisitorial as to be intolerable; and lastly that if it should be enforced it would simply drive capital into other states where the laws were more lenient. In summing up their conclusions the commissioners say: 'Fully recognizing these facts, the recognition being due in most instances to years of tentative experience, all the leading civilized and commercial nations on the face of the globe (and the commission think they are warranted in making the assertion broader, and in saying every nation, civilized or uncivilized), with the simple exception of the United States, have abandoned all attempts to levy a direct tax on personal property in the possession of individuals, as something entirely beyond the reach of any power of constitutional law, or indeed of any power save that possibly of an absolute despotism, to effect, with any degree of perfectness or equality; while the opinion of the civilized world generally is further agreed that all attempts to practically enforce laws of this character are alike prejudical to the morals and material development of state. And the commission would add that in this latter respect the experience of the United States constitutes no exception'."

The CHAIRMAN: Where does Canada come in there?

Mr. ROBINSON: They do not mention Canada.

The CHAIRMAN: It is not any part of the civilized world.

Mr. ROBINSON: Oh, I don't know, I am sure. But you see they don't apply it to the civilized world.

The CHAIRMAN: They said every nation civilized or uncivilized; we are neither one nor the other.

Mr. ROBINSON: No, I don't read it in that way. They say it has been found to be insufficient everywhere except the United States.

Mr. FULLERTON: And abandoned everywhere.

Mr. ROBINSON: And abandoned everywhere. I do not think they thought of Canada as far as that is concerned. I am very much afraid they overlooked us. Then I find rather a striking remark in Wells' book, "Theory and Practice of Taxation," p. 5, which I thought was perhaps the most condemnatory thing that could be said of any system, as to the effect that that had had upon the morals of the people, so to speak. He says, "The extent to which the existing system of taxation in the United States has obliterated the sense of honesty in its people in their individual dealings with the Government, removed all repugnance to the act of perjury, and caused each one to justify himself to his conscience for making a false return in the matter of taxes by the supposition that everyone is doing the same, is also strikingly illustrated by the circumstance that a High Court in one of the States of the Federal Union has recently decided that 'perjury in connection with a man's tax lists does not affect his general credibility under oath'" If that is the result in the States all I can say is I think I am very reasonable in suggesting to this Commission that it would be very desirable to suggest to the Legislature a change in that system in Canada.

Mr. FULLERTON: It would be too bad to tax his property and his credibility at the same time.

Mr. ROBINSON: Mr. Kingsmill was kind enough to get for me the report to our own Legislature in 1893; I have not heard mention of it.

The CHAIRMAN: We have it.

Mr. ROBINSON: No doubt you must have it. I have not heard it spoken of here, but it is very valuable in my mind for this reason, they were not directed to make any report or to suggest any change or to do anything more than get information, but they were desired to get information as to municipal systems of taxation throughout the world for the purpose, I suppose, simply of informing the Commissioners, and they did nothing more, but is a very valuable compendium of the systems of taxation pursued everywhere up to that time. The Commission was composed of Mr. Cartwright, I suppose the Deputy Attorney General, Mr. Saunders and the late Hon. Mr. Anglin. I find Mr. Anglin in his supplementary report which is in the Sessional Papers No. 73 for 1893 says

"Dr. Ely admits that 'one uniform tax on all property as an exclusive source of revenue, or the chief source, never has worked well in any modern community or state in the entire civilized world, though it has been tried thousands of times, and although all the mental resources of able men have been employed to make it work well.' Personal property he elsewhere states 'is sometimes discovered in its entirety, but it is then nearly always the property of the comparatively helpless, namely, widows and orphans whose possessions are matters of public record.'" In another sentence he says practically the same thing—quoting from the Commissioners appointed in West Virginia in 1884—"At present all taxes from invisible property come from a few conspicuously conscientious citizens, from widows, executors and guardians of the insane and of infants. In fact it is a rare thing to find a shrewd trader who gives in (to the assessor) any considerable amount of notes, stocks or money. Paying taxes on this kind of property is considered pretty much in the same light as donations to the neighbouring church or Sunday school."

They go through the thing at great length and tell you what systems have been adopted elsewhere. Now in one place there, I think it was Pennsylvania, they say they attempted to carry the taxation of personal property specifically further than it has ever been attempted anywhere; in other words they charged a man a dollar, I think for carrying a gold watch, and men who carried silver watches were asked 75 cents or something less. Well, watches suddenly disappeared in Philadelphia on the day when they were supposed to be taxed, and they had to give it up because they could not get hold of them. I find a sentence there of great weight so far as the question with reference to steam railways is concerned, because it embodies the opinion of our own Commissioners at that time. They say:

"Few railroads in Canada pay even moderately reasonable dividends on the money invested in them and such roads as are projected can not in any case be built without government subsidies and local bonuses. Nobody expects that for many years to come any Canadian railroads can contribute more to public purposes than they now pay under the municipal laws, and as duties on the coal and the other supplies which they must import."

Then they go on to explain the different systems of taxation adopted. I merely refer to that because it is practically a summary of what occurred to me to say in regard to steam railways, several days ago, and it is what occurs to anybody that considers that subject for a moment. Now in the first place this system of taxation by gross earnings which has been so violently denounced is at all events no innovation of ours. We have not imagined it or thought of it. It is the conclusion, so far as we can gather, of those who have thought most of this subject, and who have obtained the highest reputation as authorities. I do not mean to say that they are uniform in their conclusion at all; I do not mean to say that they see no objections to it; I do not mean to say that there are no objections to it; but I say that so far as one can judge—and I have not heard a single objection urged, except the one that I shall mention in a moment—so far as we can judge there are no objections in the abstract. Suppose there had been no taxation adopted and there was nobody to be hurt by any change, and you were endeavouring to think what would be the fair system to put in force, you have to consider this just upon its principles that you would then adopt, not swayed the least in the world either by the outcry of any particular municipalities or by the fact that they won't get as much as they used to get. If it is a fair system all we can say is they have been getting too much up to this time and they must get less. I have a work given to be by my learned friend, Mr. MacMurchy, Hadley on "Economies," a book written in 1898, an American authority, in which I find several passages, and on page 465, it merely recites what I have said. "The notorious evils in the working of the general property tax in the United States were not due to the fact that property was a bad basis of assessment, but to the fact that much property nominally subject to assessment was not reached at all. If local expenses were made by taxes on local real estate only—no deduction being made for debts, and if such expenses were largely made by corporation taxes, which the exemption of personal property from local assessment would make possible and equitable, we should be likely to have a tax system which would be efficient, elastic and reasonably just." Then on page 456 there is another extract as follows:—"It was always very difficult to determine the actual net earnings of a business—The gross earn-

ings are comparatively easy to ascertain The difficulty is to determine what deductions should be made from them before we reach what is available of what is not income. Take the case of a railroad. It should obviously deduct the expenses of running trains, maintenance of stations, equipment of track and salaries of officers—But what constitutes maintenance of track or equipment? Shall the company simply make ordinary repairs? This will cause the road to deteriorate from year to year as new inventions arise, so that the income will really not be as much as it appears, or shall it try to pay for all improvements out of earnings? This is going to the other extreme and will make it appear that a very prosperous road has no income at all. The conception of net income, simple as it appears, is really very difficult to apply in practice and involves so much possible litigation that many states prefer to substitute a low tax on the gross earnings of corporations for a somewhat higher tax on net earnings. The latter would be the more equitable, for a tax on gross earnings bears hardly on a corporation which is doing large business at low rates and a small margin of profit. But the superior certainty of the tax on gross earnings outweighs its theoretical disadvantages." That is almost in substance all that can be said on the subject. In Palgrave's Dictionary of Political Economy also I find a sort of history in which they say: "Except in case of house and lands, property, including its interest-bearing form, is now rarely made a subject of taxation, apart from death duties or a general income tax The reason is, no doubt, the practical difficulty of correct assessment resulting from the varied forms that in civilized countries property takes and the constant facilities for evasion. The almost invariable history of the general property tax common in the middle ages, is that originally developed out of a land tax, it has in course of time reverted to its primitive form. Personalty has gradually slipped out of assessment. It has, therefore, in most countries been supplemented by separate taxes on lands, houses, wages, profits, interest, or in quite modern times by income tax. In Switzerland and the United States a property tax is still used for cantonal and state purposes as opposed to federal. Income is now so generally recognized as normal source of taxation that it is somewhat surprising to find that it has been only after property and other taxes have failed to produce revenue required that the plan of direct taxation of income has been adopted."

The CHAIRMAN: That is under the head of "taxation" I suppose?

Mr. ROBINSON: Yes, I think so Now from that Wisconsin Report my learned friend, Mr. MacMurchy, has been kind enough to make an extract which I will read: "In Wisconsin an annual license fee, in lieu of taxes on property and franchise, is levied on quasi-public corporations, including amongst others, street railways, electric railways and electric light companies. Street railways and electric light companies pay a graduated percentage tax on gross earnings, according as the amount received is $800,000 or upwards, and this tax is apportioned between the municipalities interested Telephone companies also pay a tax on gross earnings, but not telegraph companies, which, in Wisconsin, are taxed on the mileage basis—for a single telegraph wire, $1 a mile—for a second, 50c a mile, etc., and this tax is not distributed to the various municipalities, but it is paid into the general fund of the State. The reason for the distinction appears to be that the business of a telephone company is largely intra-state and local, while the business of a telegraph company is inter-state and therefore not the subject of taxation by the state, under the American Constitution

(Ratterman vs. Western Union, 127 U.S., 411, 1888)

(Western Union vs. Alabama, 132 U.S. 472, 1889)"

In the case of gas and waterworks companies, all their property, both real and personal, is treated as personal property, and is assessed at the principal office of the company. The tax is apportioned between the different municipalities, but it is stated by the Commission that the representatives of these companies would have preferred to be taxed on gross earnings, even if a higher percentage and a larger amount of taxes were thereby levied than the amount paid under the present system, on account of greater uniformity and consequent greater ability to provide for the payment of the tax. At pages 134-5 of the report it is stated that the tax realized from railroad companies upon gross earnings is comparatively small, ranging from .45 of 1% to 1 8% and that railroads are taxed at a lower rate than other tangible property in the State, and the Commissioners express the view at page 157 that companies taxed upon the basis of earnings are not as highly

taxed as private individuals, but on making their final recommendation at page 183, the Commission say that they are not prepared to recommend that the system of taxation should be changed without a further investigation of the whole subject by a competent board of State officers, having sufficient authority to make full enquiries and compel the giving of sufficient information for that purpose.

Now, I have read from that extract what seems to tell both for and against this system we have suggested to the Board. It requires to be fully investigated and all I have to say is that if as a matter of fact the corporation would pay more or a trifle more under it than they are paying under the present system, without reference to its being fair or unfair, which is what my learned friends seem to contend for, but if they would pay more than under any other system which the Commission would find it right to recommend, I think it would be better for them, because it is of every importance to any commercial company to know what their taxes are and how to provide for them. My learned friend, Mr. Fullerton, has rather taunted us as if suggesting to the Commission that this system which we suggest is recommended by certain information which we are not at liberty to give at the moment; and that is just one of the difficulties, the Commission will see what is said in that report that I have read—they cannot recommend any changes without abundant opportunity of getting further information, etc. I can only repeat what I said here the other day, that I do not see any reason why any information that is wanted should not be made public. It may be that there are some things we get from the company that they do not wish to be made public, and that we are perfectly willing to give to the Commission, but it is perfectly absurd to say that we are trying to get from this Commission a recommendation of a system of which we are afraid to give the statistics, and equally absurd to think that if such a system were recommended, that the Legislature would feel inclined to adopt it. My learned friend sitting by me has given me a memorandum of those four companies. The general result of it we are perfectly well aware of, and he tells me that their present assessment is $2,636,275—Mr. Fullerton's figures; that their gross earnings are $2,888,000 Their gross earnings therefore on which they would be assessed are $200,000 more than their actual assessment, taking the whole four companies together. You cannot make it work exactly in the same way either one way or the other in the case of each company, but I do not know what you can do better than take in a large city the four of the most prominent companies and see what the result would be. If that shows anything it shows this, that assuming that the present amount which they are paying is only fair, it shows that our deduction of 60 per cent. was too large, that is all, and it has got to be changed; but before we admit that we have got to see that we are not unfairly taxed at present. There are many other ways that one could suggest. If this system does not work well I myself should think that some system could be devised as this: supposing the Commission should come to the conclusion that to tax the gross earnings would not be reasonable and would not answer the purpose, then I should say in Wisconsin there is a tax of 2 per cent. of gross earnings, and should say, better put the tax on gross earnings and some tax in addition on their real estate which is actually visible and tangible and is there, and the two together are certain, that is all; but avoid uncertainty. We want to obtain uniformity, we want to know as business people wishing to carry on business sensibly, what our taxes are to be from year so year so that we ourselves can calculate them and know they do not depend on the judgment and maybe the caprice of one hundred assessors in as many different municipalities. It is not half so much the system you adopt as the result of the system. At present we never know what we are to be taxed for, and when Mr. MacKelcan says, "All we want is fair value," all we want him to do is first to define what fair value is and then to tell us how to ascertain it. As a gentleman said to me the other day, "How are you to tell the fair value of a gas main that was laid down in the street twenty years ago and is now four or five feet below the surface? It may be damaged, it may be rotten, it may be worthless, it may be worth something, but you have to guess at it from the top of the earth the best way you can."

Mr. MacKelcan: I can only say we agreed on a fair value of these things in our municipality without any difficulty at all.

Mr. Robinson: That merely shows that their municipality was reasonable and we were reasonable. What has that to do with it? Does Mr. MacKelcan tell us that you

are to adopt a law that shall be reasonable or unreasonable according as the city of Hamilton and their assessor can agree with it?

The CHAIRMAN: They do not want any law in such a case.

Mr. ROBINSON: They do not want any law in such a case, as you justly observe. It is perfectly ludicrous to say they agreed on it. I am not complaining of either the city of Toronto or the city of Hamilton; I think I have said as plainly as possible that if we could get people to conduct an assessment as I think we have now in the City of Toronto in the person of Mr. Fleming, on the equitable principles of getting at it as he gets at it, I think it is the best thing we could do; but that is not what the Commission can recommend, nor is it a kind of law you can pass. You have to have a law that will be certain, will be uniform, and will as a general rule work equitably. Now then I should like to know, looking at it in that way, how can you get anything that does work more equitably than this? You have a corporation instituted for business purposes using all that it owns, real and personal, for nothing but business purposes, and we say, "Taxes on all that we can make and all that we own." Now you might talk against that till you were tired, and you cannot convince any fair-minded people that it is not fair. I am not now talking about the rate, I do not care twopence whether on the gross earnings you pay a rate of 2% or 10% or 20%.

The CHAIRMAN: What you said was that the rate should be the same as in other cases.

Mr. ROBINSON: Well, you might have to change that; I do not say.

The CHAIRMAN: Discriminate between Companies and others?

Mr. ROBINSON: You might discriminate, I should think it possible between corporations of this character and others.

The CHAIRMAN: Who should exercise that power of discrimination?

Mr. ROBINSON: There would be great difficulty in that. That would be done by the Provincial Board if done at all; I do not know any other way. I think myself it would be the better way to do it probably on some such suggestion as I have made if it turned out that it is unfair. Now let us see what is unfair. There is no use talking a moment about taxing the franchise and yet offering the scrap iron assessment. In arriving at the basis you cannot take a going concern going over five or six wards or counties and assess as much as lies in each municipality at its value in that municipality for the use of that municipality and to be employed there. That you cannot do. But it does not follow under the circumstances of the company that when you do take it as a going concern that you should value their material at one farthing less than what results in a scrap iron valuation. It all depends on circumstances. My learned friend, Mr. Fullerton, devoted some little time to the consideration of the franchise question in an appeal case in 1893. I did not cite that as having more to do with it than this; I remember that it was simply a case in which a company which had been granted a franchise which had expired, was endeavouring to make the municipality pay something for it.

The CHAIRMAN: That was very much beside what we have before us.

Mr. ROBINSON: I do not see what it has to do with it one way or the other, nor did I ever think that it had any bearing on this case. I think that Mr. Wilkie said, and it is perfectly impossible to deny it for a moment, that they have contracted to take all the material over from these companies at scrap iron prices. Beyond all doubt that is the effect of their agreement, because these agreements were the result of that decision. They said, "If there was a ghost of a chance of any such claim being made as a claim for franchise we had better have that cleared up," and so they made it clear at once that the city was to get it at just what are practically scrap iron prices. That is all that I remember of that case, and all that has anything to do with it.

Mr. JUSTICE MACMAHON: If the city determines on taking hold of this railway, the arbitrators must consider first and foremost how recently the railway company has been equipped in certain portions of their lines, new rails of the latest pattern perhaps, new cars and all that sort of thing, and the arbitrators must value these at what they are worth on the railway.

Mr. FULLERTON: Not on the scrap pile.

Mr. ROBINSON: My learned friend says not on the scrap pile. Then they must pay just the same price on the rails as on the scrap pile. It just depends on what use can be made of them.

Mr. JUSTICE MACMAHON: If the rails have lasted the lifetime of rails they are only scrap iron anyway. If the rails have been only put in the year before and are as good or nearly as good as rails that had been put in the week before, you must value them at what they are worth there

Mr. ROBINSON: If there is any market for them they are worth that.

Mr. JUSTICE MACMAHON: The market is there, and the arbitrators must value them at what they are worth there.

Mr. ROBINSON: That is the whole story.

Mr. JUSTICE MACMAHON: The agreement provides what the arbitrator shall do.

Mr. ROBINSON: There is the whole story. The Bell Telephone judgment—

Mr. JUSTICE MACMAHON: The Bell Telephone has nothing to do with it under this agreement.

Mr. ROBINSON: I do not say that it has much to do with it. I say that the Bell Telephone decision should be corrected to this extent, that you should value that by a Board such as we have suggested, and the value that Board would put upon it whether it would be a valuation of anything more than the Bell Telephone decision put upon it, any value you put on the franchise is the value attached to the right to use it or their power to sell it to somebody else; it is taxing the franchise, put it any way you like.

Mr. JUSTICE MACMAHON: It became scrap iron in the Bell Telephone case because it could not be used.

Mr. ROBINSON: That is the whole story; if it can be used it is not scrap iron. To say as Mr. MacKelean says, to get at a fair value of such material under such circumstances, I say it is one of the most difficult things in the world, and I cannot see any unfairness or unreasonableness in our suggestion, and I do not see why this system should not work out better than any other system; that is all we can say in its favour. If the Commission should desire it I should endeavour to give it every information.

The CHAIRMAN: We shall be much indebted to you if you will.

Mr. ROBINSON: We know as a fact that so far as the small companies, some ten or a dozen of them are concerned, throughout the country, we know they would pay more, but half a dozen of them are not as large in point of fact as one company perhaps in the City of Toronto; but you cannot regulate all taxation simply by the demands of either one municipality or another which comes here and says, "Anything must be unfair which cuts down what we are getting." That really is beside the question altogether. I am not attempting to say that it is either fair or unfair because it cuts them down. I want to show the Commission if I can that it is fair on its own merits, and probably the best system to adopt. Whether 60 per cent. is right, whether less is right, whether that should be joined with anything else—all that is for consideration on the wide view the Commission have to take on the whole subject.

Mr. George J. BRYAN: May I put a question to Mr. Robinson?

The CHAIRMAN: Yes.

Mr. BRYAN: I desire to know if in the total made by the monopoly corporations you include the proceeds of any special issues of stock that we term water.

Mr. ROBINSON: I should not have thought so. I should not think that that is earnings in any sense. It is not a matter that occurred to me.

Mr. BRYAN: Then I would ask the members of the Commission to bear in mind that few companies fail to avail themselves of the opportunity to issue stock on which dividends are paid, by which the company directors profit, and on which no municipality in the Province has a right to levy one cent of taxation; therefore they are not, as Mr. Robinson infers, taxed upon their franchise whatever.

Mr. ROBINSON: I should think that that would have been an addition to their capital and would not affect the principle that I am speaking of now. The Express Companies, as was suggested by the Chairman, seem to me to be a very strong illustration of what might be a company that would assist the municipality very much. They have very little property to tax, but they are earning a very large sum. They might have $10,000 of property and be taxed on $100,000; that might be right or might be wrong. The Bell Telephone Co. which was taxed on $300,000 at the scrap iron basis, I think their earning is $800,000, and in all probability their buildings, etc, are very small in comparison with their earnings. They would suffer, but taking these people as a lot they all say, "Give us something that our stockholders will understand and that we can take

into calculation, and even though it should be a little more it would be better in a business sense to pay it than pay the present which is absolutely impracticable and which encourages dishonesty without really affecting anything."

The CHAIRMAN: In connection with what you said to us the other day I was applying the principle to the case of a man who had bought a piece of land and built a store upon it, a shop. He spends $7,500 upon it, for example, and he gets a rent of $50 a month. Well, I suppose $600 or $50 a month, would be his earnings in a case of that sort?

Mr. ROBINSON: Yes.

The CHAIRMAN: On the value of $7500 he would pay now in Toronto $150 for taxes. Upon your principle he would deduct 40 per cent. from the $600 which would leave $360; then applying the Toronto rate to that, his taxes would be $7.20 instead of $150. Well, why would not the principle be applicable to the case of a man whose investment is in improving a piece of land? If it is a good principle and likely to be fair to all companies and all kinds of business, why would it not be fair it that case?

Mr. ROBINSON: The reason why I should have thought he should not be taxed on the same principle as a corporation is that that $7,500 is not invested in business at all, and the $50 a month that he is getting is not what he is getting as return of his $7,500 from property. His house is on a farm and he is getting something on the land too.

The CHAIRMAN: I am speaking of a shop on Queen St.; he rents it at $50 a month to a shop keeper; why is not that like another kind of business?

Mr. ROBINSON: As my learned friend suggests that is the earnings of land, not the earnings of business.

The CHAIRMAN: It is the earnings of taxable property.

Mr. ROBINSON: Oh, it is the earnings of taxable property. I am perfectly free to say myself, so far as I have been able to consider it, I do not think you will be able to apply this principle to individuals, because you can never get individuals to keep accounts. There is no use trying to tax all merchants upon their gross receipts, because the smaller merchants will never keep accounts.

The CHAIRMAN: The principle of taxing an individual upon his land and buildings, the personal property, would be good if you could only get at it, if you could reach it, if everybody was honest.

Mr. ROBINSON: The only reason I think that it applies eminently to these companies and solely to these companies is this, that they are bound to keep such returns that you can always get their gross receipts. No company which has shareholders and pays dividends, etc., can possibly avoid putting down every sixpence they get. You can always get at it.

The CHAIRMAN: You can find out their condition?

Mr. ROBINSON: You can find out their condition at once.

The CHAIRMAN: The value of their property?

Mr. ROBINSON: That is it.

The CHAIRMAN: What do you say to the principle laid down by Judge Brewer and Judge Miller in the Supreme Court of the United States?

Mr. ROBINSON: I do not understand myself how you are ever to apply that with success.

The CHAIRMAN: I mean applying that to corporations, what would you say to that?

Mr. ROBINSON: I do not remember what the reference was to.

The CHAIRMAN: Those two decisions in the Supreme Court of the United States from which Mr Fullerton read—Judge Miller and Judge Brewer. What he says is this, if you take the capital of the company and estimate it at what it stands in the Stock Exchange, that is a very good criterion of the value of that part of their property; then if you take their bonds which they have issued and take their mortgage value also, and these two things put together constitute the value of that company's property and ought to be the basis of taxation; that would include all their land and everything else.

Mr. ROBINSON: Well, that is merely suggesting one of the thirteen modes of taxation.

The CHAIRMAN: What do you think of that as a just method of taxing such companies as you represent?

Mr. ROBINSON: Really that would mean taxing them by the amount of the par value, or the market value, would that be?

The CHAIRMAN: Taxing them according to the present principle.

Mr. ROBINSON: Would it be the market value or the par value of it?

Mr. CHAIRMAN: According to the market value of their property. These two things are ascertainable in nine cases out of ten.

Mr. ROBINSON: In the case of a great many companies I am speaking of, it would tax them out of existence. Take the Gas Company or the Bell Telephone Company, the market value of their property represents all they have expended and all they have done.

The CHAIRMAN: No, it is what they who know best estimate their property to be actually worth.

Mr. ROBINSON: I think that would practically be applying the principle that we are told they never have been able to apply to merchants and manufacturers, taxing their whole property. I remember Mr. Thomson's statement that is seemed to be admitted that while they have the power of taxing them in full, they never attempt to put on any more than twenty-five per cent. To tax in the way you mention would be to tax all merchants and manufacturers at their full value, and the result would be to drive them out of business, that is all, as far as I can see. For instance, dealing with the Bell Telephone Company, that would be be a tax of several millions and as compared with what they are earning—

The CHAIRMAN: That might be right.

Mr. ROBINSON: I am not saying that anything might not be right; I am only saying that when you come to look at it practically—

The CHAIRMAN: If you find a person had real property to the amount of several millions he would have to stand it.

Mr. ROBINSON: Well, yes, when you look at the thing practically I would say just the same thing of a merchant. If a private person, we will say, has property of several millions he will have to be taxed on it and stand it; I say if merchants and manufacturers have property of several millions they must be taxed on it and stand it.

Mr. FLEMING: Are the cases parallel?

Mr. ROBINSON: I don't know whether they are parallel or not.

Mr. JUSTICE MACMAHON: In the one case, perhaps one half of the capital is employed in the machinery and the requisite appliances in order to create the earnings which the company eventually have, and there may be more than one half of the capital absorbed in doing that very thing, so that you can only deal in that case with the earnings.

Mr. ROBINSON: The capital is used up in producing the earnings?

Mr. JUSTICE MACMAHON: Yes, the capital is absorbed in producing the earnings.

Mr. WILKIE: A private manufacturer would be at a great disadvantage compared with an incorporated company carrying on the same business. We take a manufacturer of tin ware carrying on business in his own name, he will pay taxes on the real estate he occupies, and so much personal property as the assessor chose to levy upon him, but if he was an incorporated company he would escape everything except the assessment upon sixty per cent. of his gross earnings.

Mr. ROBINSON: No, he would not, he would get taxed on all his real property and personal too, if you continue to tax it, that was not used in his business.

Mr. WILKIE: I am speaking of what is used in his business.

Mr. ROBINSON: Then if he used everything in his business he would get off it?

Mr. WILKIE: It would become necessary for every manufacturing business and other enterprise to be carried on by an incorporated company or else the others would be at a great disadvantage.

Mr. ROBINSON: It does not seem to me that that would be the case at all; if you take a private individual, all his property is not in his business at all.

Mr, WILKIE: I am supposing a manufacturer whose money is in his business.

Mr. ROBINSON: Then he has got no house and no dwelling, that is just the distinction.

Mr. WILKIE: But I am speaking of a factory owned and run by an individual. In the one case he would pay taxes upon the value of that real estate and so much of his personal property as the assessor chose to levy upon, and his neighbour carrying on the same business under the name of an incorporated company would escape except so far as he paid taxes upon sixty per cent. of his gross earnings.

Mr. ROBINSON: All I can say is that should be remedied by some provision in the law.

Mr. WILKIE: But it is the plan that you suggest?

Mr. ROBINSON: We are not at present talking about manufacturers; we are only concerned with this class of companies that I am speaking of.

Mr. WILKIE: I am speaking of a manufacturer of light; there are establishments—

Mr. ROBINSON: Take an electric company that are doing the same business.

The CHAIRMAN: It might be carried on by an individual.

Mr. ROBINSON: It might be carried on by an individual, I suppose.

Mr. MACKELCAN: With us in Hamilton for many years the Hamilton electric light was carried on by an individual, the late R. M. Wanzer and not a Company at all.

Mr. ROBINSON: I do not myself see any answer to that except just this, that I should apply to an individual carrying on this class of business just the same rule I should apply to Companies, that is all. But I do not want to carry that into other kinds of business, because that might have a different application.

Mr. WILKIE: That is the point.

Mr. ROBINSON: Oh yes, I do not myself say as to an individual carrying on this business qua his business, he ought to be taxed as a Company is, but if he is living in the house or his foreman, that is different.

Mr. FULLERTON: Permit me to correct a misstatement in figures that I gave you—a return in the Electric Light Company

The CHAIRMAN: It does not make any difference in the principle, in the argument, a few thousand dollars more or less.

Mr. HUTTON: I would like to call attention to the report of the Wisconsin Commission that Mr. Robinson read from, when he says "Gross sixty per cent." In no place in that book does it say that 60 per cent. is in lieu of taxes on real estate. It is all in lieu of taxes on the area plant and the plant in the street; it doesn't include real estate in any instance.

The CHAIRMAN: Mr. Robinson says that in order to make that fair, that should be done.

Mr. HUTTON: Yes, but he held that up as the place where they got that idea from.

Mr. MACMURCHY: I would like to correct my friend. Mr. Robinson read from page 122. I am responsible for this quotation:—"The Corporations which are taxed by methods other than those applied to natural persons are for the most part corporations of the class known as quasi public corporations. The method is in form an annual license fee in lieu of taxes upon property and franchises". That is, in lieu of taxes on property, which includes land, real estate and everything else.

Mr. W. M DOUGLAS: Although I stated I represented seventy four companies, the point raised by Mr. Wilkie reminds me that several of those companies are really private individuals. There are I think probably a dozen or more of so called companies not incorporated; they simply carrying on a Gas or Electric Lighting business themselves. But I did not for the moment apprehend that the Commission in dealing with these would draw any distinction between a company incorporated and an unincorporated company or an individual carrying on a particular class of business which is designated in this class before the Commission. I thought they would all be treated alike.

The CHAIRMAN: And you think they ought?

Mr. DOUGLAS: I think they ought, most decidedly.

Mr. R. J. FLEMING, Assessment Commissioner, Toronto: The ground has been very fully covered by Mr. Fullerton, I think on behalf of the city. What does appear to us as being unfair is for the representatives of the companies to come forward and make a proposition at this time that will put municipalities in a far worse position than they are in at present: and they make that proposition based upon the advantage that they have at present, that the balance of the community have not. For instance, if the companies would come forward, and say, "Now, we are prepared to be taxed upon the same basis as every individual, that is to be taxed upon our real estate, the same value as a man is taxed upon his house, all our real estate, but as a simpler way, we will pay into the public treasury upon gross receipts as we are paying now,"—that is, both starting out upon the same basis there might be something fair in that; but to come to the Commission at a time when they have an immense advantage over the general public and asking the municipalities to accept something of that kind, does strike us as being extremely unfair. Now I maintain that these companies are not entitled to even as much consider-

ation as a property owner is, for this reason : there is no company that I know of in the City of Toronto that is not paying a handsome dividend to its stockholders and that is not putting away a large reserve every year. Now that does not apply to the thousands of people who hold houses throughout the City of Toronto. There are thousands of them who are not getting three per cent. on their investments. I think, Mr. Chairman, that you struck the kernel of it, that if this system proposed by Mr. Robinson is good for the companies, why not apply it to the man that holds real estate? And if it is applied to the man that holds real estate, then I presume there would be very little objection to it. But to adopt a system in favour of the companies that is going to be immensely to their advantage, we maintain will be most unfair to the community at large. By the judgment that was delivered in the Bell Telephone case we were struck on the right cheek, and now they come and ask us to turn around the left cheek. I think that that is a most applicable illustration. It does strike me that the proposition is fraught with disadvantages to the community. I can quite see where, right on the receipts that they are taking in now, they could go and buy a block of property—take that block that is for sale by the Ontario Government that brings in possibly a couple of hundred thousand dollars assessment a year. There is nothing to prevent one of these companies purchasing that, holding it there and placing the cars upon it and keeping six thousand dollars a year, possibly, in taxes, from the city ; that would be the result of it, and their gross receipts would be no more. I think that the whole proposition really, as far as we can see it, is an unfair proposition to make, and one that we would scarcely expect from a getleman of the standing of Mr. Robinson.

The CHAIRMAN : Mr. Robinson is very fair and candid. He says, "If it is necessary to produce equality and fairness, let them be taxed on the land besides."

Mr. FLEMING : If they were to be taxed upon their lands and if we were to have conference so that they would be paying what was fair in proportion to the balance of the community, nobody would object ; but to adopt any such proposal as they have made here—well, we think it is wholly wrong, and if it were not for the fact that it is being put forward by such a respectable gentleman, we would feel disposed to use very strong language in reference to it.

The CHAIRMAN : Is there anyone else desiring to be heard ?

Mr. GEORGE J. BRYAN : The inference I wish the Commission to draw from my question to Mr. Robinson in regard to whether the income from stocks should be included in the gross proceeds, was that if it was not so included then the dividends paid to all this stock must come out of the proceeds, therefore the proceeds submitted for taxation would be less than what properly should be levied for taxation.

Mr. WILKIE : Mr. Robinson included all gross earnings of the company. Watered stock has nothing to do with gross earnings.

Mr. MACMURCHY : The dividends are taxed as income.

Mr. BRYAN : But I maintain that the dividends would be taken out of the proceeds.

Mr. MACMURCHY : And the income in the hands of the shareholder is taxed.

Mr. BRYAN : My inference in that respect was an error ; but the arguments advanced by myself and one or two others in regard to the taxation of franchises of these corporations have not been answered. They stand unanswered. Mr. Fullerton in presenting his case has fortified the ground which I chiefly took, that the easiest, most equitable and just method of assessment as applied to corporations of the character being treated of this afternoon is that which is imposed upon the franchise value. That has not been touched by any speaker. Mr. Douglas and Mr. Robinson in their various arguments tried to show that many of these corporations have no franchise value, and as a matter of fact that if there is a franchise value, that under the present methods of taxation, they are already assessed. As a matter of fact they are not assessed. As proof of that we need only mention the case of the Street Railway Company, which is assessed for something around $700,000, and they have a stock issue of $6,000,000 on which they pay dividends. The total value of their plant and equipment must come up to $2,500,000, but they only pay on an assessment of $700,000 in all ; therefore I maintain that the difference between the value of the plant and equipment and the total issue of the stock is the value which is being exploited for the benefit of the stockholders of the Street Railway Company. This is merely an illustration of what goes on in connection with every other incorporated company—the company is exploited

with the issue of stock. I maintain that every dollar issue of stock is based, not upon the value of their plant and equipment or their buildings, but upon the franchise value, the use value, which is obtained annually and is terminable just as any other value is terminable. Therefore the position which I have taken in respect to the treatment of franchise corporations is, in my judgment, the most sensible one to be taken by this Commission and the Government in enacting legislation. There must be clearly a distinction drawn between those things which are monopolies and those things which are not monopolies. It has been proven to our satisfaction that theoretically they may not have been exclusive monopolies, but practically they are monopolies. A competition cannot exist between these different organizations as competition can exist between one manufacturer or one storekeeper or another. They maintain an exclusive privilege obtained through special legislation; and therefore I maintain that the Legislature in treating with these different corporations should tax the franchise as the fairest and most equitable that can be imposed.

Adjourned at 5 p.m. till to-morrow at 10.30 a.m.

NINETEENTH DAY—FRIDAY, DECEMBER 14TH, 1900.

Commission resumed at 10.30 am.—Present all the Commissioners.

The CHAIRMAN: We shall now proceed with the consideration of the insurance companies.

Mr. J. K. MACDONALD, Esq., Managing Director of The Confederation Life and President of The Managers' Association: Your Lordship and Gentlemen of the Commission, I am asked to present our case before you, although we would ask the privilege after I have got through of perhaps some other gentlemen who are present supplementing what I have to say.

The CHAIRMAN: Certainly.

Mr. MACDONALD: Before entering upon the matter I wish to thank your Lordship and the members of the Commission for your kindness and consideration in giving us this appointment, and we regret if it has caused any inconvenience to the members of the Commission, but we appreciate fully your kindness in postponing the meeting and appointing us this meeting to-day. I would just mention to you some facts in reference to that which we represent to-day that will bring before you some idea or notion of the importance of the subject at least. I may say to you that we represent here to-day insurances upon the lives of very nearly $300,000,000, with assets in the Canadian and British Companies, excluding the American Companies, of some $71,750,000. It will be seen from those figures that we represent to-day a very important interest indeed, and we therefore ask you all to consider with patience what we have to bring before you.

The CHAIRMAN: You mean $300,000,000?

Mr. MACDONALD: The British and Canadian Companies represented $209,227,644 at the close of 1899.

The CHAIRMAN: And you also represent American?

Mr. MACDONALD: Well, our Association does not include the American Companies, and therefore we represent the British and Canadian Companies.

The CHAIRMAN: You said something about 72 millions?

Mr. MACDONALD: That is assets. I have not the exact figures of the British Companies, but an estimate which would be sufficiently within the mark I think would show the assets that we represent here to-day as $71,755,000. I would start out by laying down the proposition that with the exception of dividends to shareholders the nature of life insurance funds is such that they ought not to be subject to taxation. That is the proposition that I would lay down, that the life insurance funds, from their very nature, except so far as they relate to payments to shareholders, should not be subject to taxation. In order to make that good I have to ask you to be patient with me in enabling me to bring before you what may be to a certain extent the minutiæ of our work. Life insurance companies have only two sources of income. I would like the Commission to bear that very distinctly in mind, because it will help us as we proceed. These two sources of income are premiums and interest. The second, interest, is only brought into existence by the first. Interest can only be earned after premiums have been paid and have become

invested and produce in that way a revenue. I ask to make this very distinct in the minds of the members of your Commission, because in judgments which have been given in connection with taxation there seems to have been a misapprehension as to the sources of life insurance companies' income; hence the reason of my making it very distinct. It will be necessary for me, that you may thoroughly understand the matter, to explain what is meant by the term "premium." Generally I think it is well understood that "premium" is the consideration which the person pays for his insurance that is granted to him. There are several kinds of premium, however; there is what we call the natural premium, the level premium, and the single premium. The natural premium is one that is paid merely for carrying the risk during the year for which it is paid. The natural premium of necessity increases with each year of life, inasmuch as each year of life added to the life increases the liability to death; and I would illustrate that by the following figures taken from Hardy. Take a natural premium, for example, at age 30; the net premium, that is the premium without any "loading," at the beginning, net premium is $7.39; that, improved at 4½%—which is the rate I have assumed in connection with this case—will be the amount which this person has to contribute to the death claims which arise during the year. It leaves nothing over, and it is sufficient. That kind of insurance is practised to some extent, but only to a limited extent, for a reason that I will explain to you. This increases so rapidly that when a man gets on to the later years of life, when his liability to earn becomes less, the burden of payment becomes too great for him to bear. I will explain to you; for example, this natural premium at age 30 is $7.39; what we call a "level" premium, which I will explain presently, is $15 80 per thousand; that is the amount which he will pay, neither more nor less, as a net premium—I am speaking only of net premiums—he neither pays more nor will he pay less during the whole period of the policy's existence. This is a policy payable at death. Now, at age 50 the natural premium has reached very nearly the amount of the level premium at age 50; it is $15.26. At 51 it has exceeded the cost of the insurance, and the insurance has exceeded the natural premium at 51, it is $15.95, while the level premium is $15.80. Then when you come at age 60 the natural premium is $28.40, and if you go on to 65 it is $41.51. This illustrates to you the reason why the natural premium plan is not a very popular one, because if insurance is needed in the later years of life it implies such a burden that it usually has to lapse and come to naught. Hence the level premium The level premium is one, as I have already said, that is an even premium during the continuance of the insurance, and the insured practically says, "I will give you now so much money; I don't want my premium to increase, but you will hold the difference between the cost of carrying the risk as a reserve and increase it by interest added to it so that when the claims by death shall exceed the amount of premium that I am paying, this fund will be in existence to meet these overpayments." And the level premium is therefore made in that way. A man at a sound age pays a larger premium than is necessary for the carrying of the insurance in order that as the years go on he may in the future not have to pay a heavier burden, but only continue the level or even premium. That is a level premium. The "single" premium is one where a person pays at once one single sum of money and the payments are done with. That money has to be accumulated at interest in order to meet the requirements of the future, both as to the amount of the policy and as to the contributions to the deaths that arise during the year. I may explain further in regard to the premium—I deal simply with the net premium—that in ordinary level premiums, necessarily as you will see from what I have said, it is resolved into two parts. One part is that which goes to pay the claims that arise during the year under the table of mortality that is used; the other part of it is the amount that requires to be held in reserve and carried forward and accumulated as I have indicated. I will lay before you presently some sheets that will more fully illustrate the operation. Very often, in fact invariably, there is added to the net premiums what is called loading—that is, something to cover expenses and contingencies of one kind and another; but that is not necessary for giving you the information which we seek to place before you, and therefore I deal simply with the net premiums, leaving loading out of the question altogether. I have here the working out of an insurance fund on the basis of a thousand lives, starting at age 60 and carrying on the transaction till 97, when, under the mortality tables, the last one dies.(a) I may say that age 60 is chosen in preference to

(a) See No. 29 in Appendix A.

an earlier age merely to shorten the illustration ; that is the only reason why age 60 is assumed. We might just as well have assumed 30, but of course it would have been so much longer. Now you will observe that in the first year all the thousand are alive and they all pay the premium. That premium is put out at interest at 4½%, the theory being in life insurance that claims are only paid at the end of the policy year, and that premium must be improved by the rate of interest that is assumed, in other words, theoretically the premium on life insurance is invested from the moment it is received, at the rate of interest assumed. If the rate of interest assumed is greater than that which is made, then there is a loss ; if it is greater than that assumed, then there is a gain of the difference. In the first year the deaths call for $29,680 of death claims that will arise in that year, theoretically. That may be varied owing to circumstances ; it may be less one year and more another year, and so on ; this is the theory of the mortality tables.

The CHAIRMAN : 29 deaths would be $29,000 net. What are the 680 ?

Mr. MACDONALD : It is fractional ; you will notice it is 29,680 number of deaths. Then you will notice in red ink figures the reserve is brought down $28,715.60. Then there is added to that reserve the premiums for the following year paid by the living, then again the interest is upon the whole, that is, the reserve and the others, and so on. If you will let your eye run down to about the foot of the page you will find that the reserve in about the twelfth year has reached its maximum. It has been increasing up to that point. It will now go on and decrease. The reserve, in other words, will now begin to discharge the functions for which it was created. Were the premiums paid insufficient to meet the death claims, then the reserve must be drawn upon for that purpose ; so you see about the 12th year that the reserve has reached the sum of $200,-307.92, and the next year is a decrease to $199,957.69. This will show the workings of the fund ; and passing on it will be seen that at the end the amounts just about balance each other, with a very slight difference ; at age 97 the last one dies and the fund is cleaned out. I have also prepared a statement that I thought might bring even more vividly before the members of the Commission a sort of debtor and creditor account run out for a few years (*b*) You will see from this that it is in a somewhat simplified form ; it appears a sort of a debtor and creditor account. It is a single life, but it will show the working of the fund at any rate. The age is 30 and the insurance is $1000 upon our life plan, and the interest is 4½%. I have assumed the premium is $15.80. The first year's interest is 71 cents, making the first year $16.51 ; the cost of carrying the risk is $7.65, leaving reserve $8.86, which is carried forward. The second premium is paid and the interest added, which makes a new fund again, out of which is the cost of carrying the risk and the reserve passes on. The variation is the same throughout, only varying in amount. My reason for endeavouring to make this very plain is owing to what we think has been a misconception as to the funds of a life insurance company and the revenues which the life insurance companies have. These examples will illustrate the two functions that are discharged by the premium ; that is, the function of death rate and reserve. If the rate of interest assumed is 4½%, and it is neither more nor less, and the other conditions are the same as worked out, then there would be nothing left over nor would there be anything minus ; the conditions would be just as set forth here ; but of course in practice these vary to some extent. I want to emphasize the matter of interest. The interest of life insurance companies is that which has been taxed in the past, and the judgments which have been delivered in connection with the suits which have been had seem to not clearly apprehend that this interest was, at least to a very large extent—to the extent of the rate assumed, at any rate—was really a liability, and not in the ordinary sense an income that ought to be subject to taxation. I will illustrate this proposition more forcibly than even the examples we have given you here in the workings of the insurance fund and also the workings of the fund in the single life, by giving you, for example, a net single premium for an insurance of $1000 at the age of 30. The net single premium at the age of 30 is $268.40. Now, that sum has to be improved in such wise that it will pay its share of the claims that will arise during each of the years and shall ultimately be a sufficient sum to pay each man $1000. You can readily see, then, the effect of interest, whether interest is a liability or not. I think that that is so plain that I need scarcely dwell upon it, it is so self-

(*b*) See No. 30 in Appendix *A*.

evident, but that is the liability which has been ignored heretofore in dealing with this subject It is one that we have been unable to show our Assessment Commissioner and others, that this was a liability quite as much and as sacred as the liability upon a merchant's stock on which he owed a debt; but yet we have been subject to taxation upon it.

The CHAIRMAN: You look at it in this light then, Mr. MacDonald, that it is money paid you by the assured to be returned to him at a future time on certain terms?

Mr. MACDONALD: Precisely.

The CHAIRMAN: It is a loan?

Mr. MACDONALD; It is his own. It is practically a deposit with the Company to be improved and to meet a certain obligation.

The CHAIRMAN: A loan to the Company to be paid back?

Mr. MACDONALD: Well, it is hardly a loan. I will explain that a little further when I come to deal with the nature of a life contract. but it is hardly a loan, because it has to cover the contingency of an early death.

The CHAIRMAN: That is to be paid back at a certain time?

Mr. MACDONALD: It is to be paid back.

The CHAIRMAN: Namely, at the time of death.

Mr. MACDONALD: At the time of death.

The CHAIRMAN: It is a very simple transaction; a man should loan $10,000 at interest to be paid back at his death.

Mr. MACDONALD: That is not what he pays the money for; he pays the money to cover the contingency of his own death.

Mr. JUSTICE MACMAHON: Taking the mortality tables on the average, and you may be compelled to pay that a year after the contract is entered into.

Mr. MACDONALD: As a matter of fact one gentleman since I came into this room this morning referred, I think, to three cases where his company insured men during this year and they have paid the claims.

The CHAIRMAN: It is not a loan for that reason, but you may have to pay back a hundred times what you receive—ten or twenty times at all events?

Mr. MACDONALD: Yes. It is not a loan; it cannot be regarded as a loan.

The CHAIRMAN: You might be called upon in a year to pay four times what you have received?

Mr. MACDONALD: We might be. I want to illustrate further some figures that I compiled some years ago, and these figures have already been before the Government, showing the importance of reserve including the interest element. This is a list of British insurance companies, 22 of them, some of these were established as far back as in the 18th century, and most of them in the early part of the present century: there is the Atlas, established in 1808; The Clergy Mutual, 1829; The Eagle, 1807; The Economic, 1823; The Equitable of London, 1762; The Imperial Life, 1820; The Law Life, 1823; The Liverpool & London & Globe, 1836; The London Assurance, 1720; The London Life, 1806; The Mutual of London, 1834; National Life, 1830; National Provident, 1835; Pelican, 1797; Provident Life, 1806; The Rock Life, 1806; The Royal Exchange, 1720; The Scottish Amicable, 1726; The Scottish Widows' Fund, 1815; Universal, 1825; West of England, 1807; and The Yorkshire, 1824. These figures that I have here are for the most part for 1891, with the exception of very few companies that are 1890. These companies in that year received in premiums $19,517,165; they paid for claims during the same year on policy account $25,413,705, or $5.896,540 more claims than they received in premiums, showing the functions there of the reserve—the very soul of which is interest. Then again in our own country here in the Blue Book for last year, on page 22 of the Report of the Superintendent of Insurance for 1899 he gives a list showing the total premium income and payments to policy holders during the last 21 years of the life insurance companies which have ceased to do business in Canada, and also the ratio of policy holders to premiums received. The total premium income during those years is $5,518,488; the payments to policy holders during the same time, $8,127,265, or 147.27 per cent. in excess of the premiums received—thus again illustrating the value, the necessity, for a reserve, and of course the interest, without which that reserve would be intirely insufficient.

Mr. WILKIE: Were those payments for one year?

Mr. MacDonald: No, they were for the whole period of twenty-one years; of course we would have no such payments in a young country such as this is in one year.

Mr Wilkie: These are companies that had ceased doing business?

Mr. MacDonald: Those are companies that had ceased doing new business.

The Chairman: Canadian companies?

Mr. MacDonald: No.

The Chairman: Foreign companies doing business here?

Mr. MacDonald: British and foreign; I fancy they would be nearly all British companies

The Chairman: Which had withdrawn?

Mr. MacDonald: Yes, withdrawn, not doing new business. I can give you the business for 1899: Premium income, $152,534, payment to policy holders, $376,018, or 246.51 per cent. Of course the last year's experience illustrates more forcibly what I want to bring before you than taking the whole period. Without the reserve of course it would be impossible for these companies to have made the payments. I would like now, if I have succeeded in making those matters plain to Your Lordship and the members of the Commission, to refer to the further nature of the contracts which a life insurance company enters into with his clients or policy holders. These are of two kinds, they are with participation in what are called profits, or share of the surplus, and without participation in the share of profits. The latter is a policy with an even premium which neither becomes more nor does it become less; it is an even premium during the period of the policy or throughout the period for which it is agreed to pay premiums. Sometimes premiums are paid through the whole period, sometimes for limited periods—ten years, fifteen years, or twenty years, as the case may be. That is, that the premiums are all paid up in ten years, fifteen years, or twenty years, and thereafter no further premium paid. In the case of a policy with participation, however, it is different. The policy holder says, "I am willing to enter with the shareholders, if there are any, into the gains and losses of the company, and I am prepared to pay you something more for that privilege," and consequently a higher premium is asked for the policy with participation than is asked for a policy without participation; and I may simply state that the agreement is practically this: "I am quite willing," the policy holder will say, "that you should assume to institute an actuary's table of mortality, that you shall assume the 4½ per cent. rate of interest or whatever rate of interest it may be; that you shall add to your premiums a certain sum called "loading" to cover contingencies; but you agree on your part to return to me at stated periods, whether that be one year, or five years, or ten or any number of years, you agree to return to me a fair share of any gain that you may make. For example, if in your mortality experience your deaths are even within those called for by the table—there is a certain saving there, because if there are some deaths that do not fall in one year there is a saving at least of additional premiums that will come in and a certain gain from that—then you may be able to make 5 per cent. or 6 per cent. so that the difference between your 4½ per cent. or other rate and the rate you actually make will leave a margin. Then again, your expenses and contingencies may call for less than the amount of the loading, so that from these three sources there is a possible gain. Now, I am willing to deposit with you this larger sum of money that I may share from time to time in a fair amount of these surpluses." It is a misnomer to say they are profits; they are simply repayments of certain amounts that are paid in there to be repaid again if on the investments at stated intervals there is found to be a surplus, and it is really a share of surplus. That is the nature of a policy with participation, that it shares in the gains, and he would also share in the losses if there were any.

The Chairman: How would he share in the losses?

Mr. MacDonald: He would share, for example, if nothing were made.

The Chairman: He would have paid a higher premium and got nothing for it.

Mr. MacDonald: And got nothing for it.

The Chairman: If the losses exceed that he would not be liable?

Mr. MacDonald: Of course the shareholders would be drawn upon where there were shareholders. Where there was a mutual company there would be the mutual loss.

Mr. Wilkie: It would be carried over to the next year.

Mr. MacDonald: It is a question. Probably it would be carried over, but there they lose by not having a gain. If I have at all succeeded in making these points plain

as a basis upon which we are to proceed, I would move on to give you some reasons which I have called " Reasons of expediency why life insurance should not be taxed." I started out with the proposition that except as to payments to shareholders, life insurance funds were of a nature that should exempt them from taxation, and I hope that I have been able to put this matter in such a clear light that I have fairly established that proposition.

The CHAIRMAN : If personal estate ought to be assessed, then you have got a very large volume of personal estate belonging to somebody ; why should it not be assessed ?

Mr. MACDONALD : That is a question, your Lordship, I am hardly prepared to answer.

The CHAIRMAN : That is the very point you are at, isn't it ? Your proposition is that that large volume of money, personal estate as it is in your hands, ought to be exempt from taxation.

Mr. MACDONALD : Well, I am only speaking——

The CHAIRMAN : Who should pay a tax on it ?

Mr. MACDONALD : Well, the contention is, there should be no tax. What I am arguing for is that there should be no tax upon a liability ; that is the point of my argument.

The CHAIRMAN : Then the policyholders should be taxed ; every man who has a policy of insurance should be taxed in respect of the premiums which he has paid on it ?

Mr. MACDONALD : I don't know why it should be so.

The CHAIRMAN : I have got a policy, for example, of $10,000, and in the course of my not very long life I have paid a large amount of premiums, I ought to be taxed on that ?

Mr. MACDONALD , Well, I think if I were the law——

The CHAIRMAN : Somebody ought to pay taxes on it if personal property ought to be taxed.

Mr. MACDONALD : If I were the law maker I would say you should not be taxed upon it because you are benefiting the nation by your very thrift in providing for you ; and this is one of the reasons I am going to submit to you now as a reason why it should not be, because there is the broad question outside of the mere question of paying the taxes.

Mr. JUSTICE MACMAHON : You say you are a trustee of that fund for the party who has deposited with you ?

Mr. MACDONALD : Practically.

Mr JUSTICE MACMAHON : And that you may be called upon to return that, or five times as much, the day after or the month after.

Mr. MACDONALD : While I venture no opinion about it, it seems to me that if anything is to be taxed at all it is the claim when it is paid. There is a very large claim to somebody there, that is when they die early.

The CHAIRMAN : I have a policy of insurance and it is worth so much to me to-day ; surrender value, for example, is its present value, isn't it ?

Mr. MACDONALD : No, that would not be its present value ; that would be the reserve subject to some charge upon it. Each company has its own rule for surrenders.

The CHAIRMAN : How much taxes do you pay now ?

Mr. MACDONALD : We pay taxes to the City of Toronto and we pay one per cent. to the Ontario Government on all premiums upon policies in Ontario. That I will come to later on, however, as it is part of what I have before me.

The CHAIRMAN : What taxation do you pay to Toronto ?

Mr. MACDONALD : We pay taxation at present on all interest on investments in Toronto

The CHAIRMAN : How much does it come to yearly ?

Mr. MACDONALD : I could not answer you off hand.

Mr. FORMAN : I think it is $26,000 of assessment.

The CHAIRMAN : The tax on that would be about $520.

Mr. MACDONALD : Yes. I shall deal with that question later. I may say that before the passing of the Revenue Act we paid to the City of Toronto, upon an assessment upon the gross interest, income together with our profits that went to the shareholders' account, no matter where that interest was earned, whether it was in Toronto or Timbuctoo——

The CHAIRMAN ; Where you have a large number of policies ?

Mr. MACDONALD : Yes, wherever we had investments We haven't any in Timbuctoo, but we have all over Canada from the Pacific to the Atlantic, and the City of Toronto

taxed us on the gross interest, ignoring altogether the law which I endeavoured to point out was had in relation to it.

Mr. FLEMING: How long were you taxed that way?

Mr. MACDONALD: Two or three years. We have had two suits over it.

Mr. FLEMING: And your company has been in existence for fifty years?

Mr. MACDONALD: Oh, you must have been born late. The reasons of expediency that I would like to submit for your consideration—because a tax cannot fail in considerable measure to repress that thrift on the part of the people which is in the highest interest of the nation. My first reason of expediency then, is that it will tend to repress thrift, which is of the highest importance. My second is, because in the large majority of cases life insurance is entered into either as a protection for dependent wife and children or as a provision for advanced age when the power to labour, whether mental or physical, has ceased or become impaired, and so lessens the chances of their becoming a charge upon the state. Of course the one follows the other. I might say, sir, that the value of life insurance has been recognized as of great value in relation to this very possibility that I have just referred to. It has been recognized in Germany, where life insurance has been made compulsory; it is recognized in Great Britain, where with certain limitation as to amount, I think £150, one-sixth of a man's income, if he uses that proportion of it for life insurance, is exempt from the operation of the income tax. The third reason, and one that I think has very much force in it, shows the beneficent character of life insurance and the work that the life insurance companies are doing, because life insurance is carried on mainly for the benefit of the policy holders and not as a money-making concern for shareholders. I refer again to the report of the Insurance Superintendent for 1899. At page 21 the total amount paid to policy holders during 1899 was as follows—it goes on and gives the total—$7,680,958 85. That is to say, the companies paid in Canada last year that amount to the policy holders; I suppose there can be no dispute as to that.

Mr. MACPHERSON: That was the accumulation of many years' insurance.

Mr. MACDONALD: No sir, it was the deaths that arose in that year. That does not mean that they were all insured last year.

Mr. MACPHERSON: They may have been going on and insuring for ten or fifteen years.

Mr. MACDONALD: Yes, this is the total paid to policy holders last year. Then I would refer you to page 23 of the same report for 1899, to the amount paid to shareholders in the shape of dividends to shareholders. I have said here that it is carried on mainly for the benefit of policy holders and not as a money-making concern for shareholders. That has been disputed. I let these figures speak for themselves. The Superintendent gives, and I have no doubt gives correctly, as the amount paid as dividends to shareholders during 1899, $88,510, as compared with $7,680,958.85 paid to policy holders.

Mr. MACPHERSON: But that is hardly a fair comparison, is it, because the large amount paid to policy holders had been accumulating for many years, whereas these paid to the shareholders were all made in one year?

Mr. MACDONALD: There is no point in that, because we will go back for ten or twenty years to find the same thing. If one year is wrong—

Mr. MACPHERSON: But what I am contending is that the amount paid to the shareholders was all earned in one year, and the amount paid in 1899 to the policy holders, was the accumulation of many years.

Mr. MACDONALD: Each year bears its own liabilities and payments. The year before not quite as much was paid, I think there was a little less paid for death claims and also a little less paid to shareholders as compared with this.

The CHAIRMAN: The proportion is pretty nearly the same in each year.

Mr. MACDONALD: Practically the same. The point raised I do not think has any bearing on the question, and I am simply showing now the difference between these two; and you will see that that is just something like a little over one per cent. of as much paid to shareholders as is paid to policy holders, and I think I have now made good the statement. While I have taken this ground, as representing the companies, I may say that the companies are not opposed to a fair measure of taxation notwithstanding the proposition that we have laid down and the argument we have advanced in sustaining

that proposition. We are not opposed to a fair measure of taxation, but we do hold that under the Assessment Act and the action of Toronto, and we will say of the Hamilton corporation, of these two places, before the passing of the Revenue Act, as well as under the operation of the Revenue Act, that the life companies have been and are unjustly taxed. Under the old Assessment Act there was held to be assessable under the judgement of the senior judge for the County of York the gross interest receipts from whatever source they may have come, no matter where the investments may have been, whether they were in British Columbia, in Manitoba, or elsewhere; they were assessed, and also all the profits going to the shareholders' account. It is not necessary in connection with this for me to refer to the judgment—

The CHAIRMAN: What were the two?

Mr. MACDONALD: Gross interest receipts and all profits going to shareholders' account.

Mr. WILKIE: Is that the basis now?

Mr. MACDONALD: That was the basis at the time before the passing of the Revenue Act, and so far as Toronto is concerned to-day it is the basis, so far as the Revenue Act permits the City of Toronto to levy taxes.

Mr. WILKIE: The taxation on gross interest received and taxation on the profits to policy holders?

Mr. MACDONALD: No, to shareholders.

Mr. WILKIE: That was double taxation.

Mr. MACDONALD: So it is, practically.

Mr. WILKIE: Because that interest is what is paid to policy holders.

Mr. MACDONALD: Practically it is double taxation, to a certain extent; but it is one of the injustices under which the companies have been labouring. Judge McDougall gave two judgments. This matter was before him twice. I am going to quote now from his second judgment: "It is contended that the words in the new section impose a liability upon the company different or more exacting than that imposed by the words in the original section." That is to say, Judge McDougall in a previous judgment used the expression that there was no specific direction given, or something to that effect, in the Insurance Act, showing that interest had to be added to the reserve. The Insurance Act was amended making that definite, that that should be added in that way, and this is then after that amendment had been made to the Insurance Act, this second judgment of Judge McDougall's was delivered, and the reference here is to that amendment by which the reserve of the preceding 4½ per cent. should be added. The judgment goes on —"The language of the former section directed the reserve to be computed according to standard tables of mortality, with 4½ per cent per annum added. The new section amplifies this language, but, in my opinion, says the same thing with this change, that in computing their reserve they shall add to it annually a sum equal to interest at the rate of 4½ per cent. per annum upon such reserve, and if the aggregate result obtained should be, according to the mortality tables, insufficient, they must make up such deficiency by adding to it enough funds from premiums received during the year to bring the reserve up to the required amount. The object of this is to establish and maintain a fund or reserve sufficient in amount according to the standard tables of mortality to cover the liabilities to the policy holders in Canada for the year in respect to which the calculation is made." You will see from this that Judge McDougall has failed to apprehend what the sources of life companies' income are, what income the companies have. I have pointed out to you that we have only two, that is to say, we have the premium and we have the interest on the invested premiums; from the illustrations that have been laid before you you will see that the moment that a new premium is paid, that is religiously set aside and added to the reserve of the preceding year and carried forward to be improved at the rate of interest assumed. It seems to me that it is very much like this, that a judge at Quarter Sessions has somebody before him charged with embezzlement, and he says to the man that is charged with embezzlement, "Why didn't you take the money that was coming in from day to day to make up the shortage that you had from the previous day?" It may be a very striking illustration, but it is one that points very strongly in the same direction. A life insurance company is merely a trustee, and it cannot take the premiums of 1900 to make up the shortage of 1899 Each premium has its sacred obligation to discharge, and the trustees are either acting up to their responsi-

bility as trustees in seeing that these do fulfil their proper duty, or they are falling short of their duty by doing that. And unfortunately, sirs, the reasoning of Judge McDougall is that which has been followed by Judge Ferguson in Appeal, and again by the judges in the Court of Appeal, to which I find it necessary to refer. His Lordship Justice Ferguson in the case of The Confederation Life vs. The Corporation of the City of Toronto, in giving judgment there goes on to say, "And although I have no doubt that, as stated by the witnesses, the reserve fund is sacredly set apart for the purposes mentioned, I do not see, nor does it anywhere appear before me, that by law the interest arising on the investment of it must be appropriated to the purpose of its increase." That is speaking of the reserve. "The plaintiffs are no doubt required to have this reserve fund, to keep it up and increase it year by year, but the necessary increase from time to time, so far as I am able to say, might be made with any moneys whatever." Clearly following out the same reasoning as Judge McDougall, and without bearing in mind that there were no other moneys from which this could be made up but from the interest. "The plaintiffs are only required to have a reserve fund of a certain amount, to be ascertained from time to time by calculations, and if they have that fund made up from moneys of any source, that must be satisfactory. They are not obliged by law when they receive interest arising upon invested funds or parts of it to apply such interest directly to the increase of the fund, however proper and commendable it would be to do so." To do less than that would be a breach of trust. Then he goes on to say, "Then looking at the subject in this way, which I think is the true way, the appropriation of interest arising on investment fund to its increase is but a method, a commendable method, approved of by the Government Superintendent, and operating, or operating in part, to require increase of the fund." But from the facts which I think I have been able to lay before you I have been able to show that that reasoning can hardly be taken as applicable to a life insurance fund. Then in the Court of Appeal, when the case was carried to appeal, The Confederation Life vs. Toronto, His Lordship Justice Osler says, "The plaintiffs are not legally bound to add the revenue arising from the fund to the fund itself. It is received by them as one of the general sources of income, and they are free to do with it as they please. As a matter of bookkeeping on one hand and of prudent business dealing on the other, they augment the fund by carrying the income arising from it to its credit, but they might apply any other fund or portion of their income." Again the same misapprehension as to the sources of income, etc. And, sir, I might call your Lordship's attention to your own judgment in that case, where you seem to have followed it very much in the same way that this was.

The CHAIRMAN: Very likely I was wrong.

Mr. JUSTICE MACMAHON: We will have to overrule the Court of Appeal here.

Mr. MACDONALD: No, Your Lordship,, not to overrule the Court of Appeal, but to get further light. I think it arises entirely from a misapprehension or a misunderstanding. Your Lordship says, "The Company no doubt must maintain and if necessary must increase their reserve, but they are not obliged to use the income derived therefrom for that purpose any more than any other fund or funds derived from any other source."

The CHAIRMAN: Suppose they had a large capital?

Mr. MACDONALD: Well, the capital has its own responsibilities. The capital should only be called upon to provide for the responsibilities and for losses if they occur. The capital of course is subject to taxation; it has its responsibilities.

The CHAIRMAN: Still, they might have other funds.

Mr. MACDONALD: No, a life insurance company has no other funds, as I pointed out to your Lordship.

The CHAIRMAN: Suppose it is a company with capital.

Mr. MACDONALD: Well, capital is not income.

Mr. JUSTICE MACMAHON: Stockholders' dividends?

Mr. MACDONALD: Stockholders' dividends are properly subject to taxation and are taxed. His Lordship Justice Street has also dealt with the matter, and I think that he is reaching into something that recognized the liability, although probably he did not see quite as far as we would like him to see. He says, "It is obvious that in any event the interest on the fund is simply a part of the general income of the Company and must be taken into account along with the premiums received upon policies and other details of income," etc.—clearly following out the thought that there are various sources. But

here is the point: "The Company is taxable on its income, which means the balance remaining in each year of the receipts after paying expenses, providing for liabilities and replacing capital lost or expended." That admits a principal which, if it had been admitted and brought into our case, we would have no ground to complain; but what we complain of is that our liabilities were taxed on that income which should have gone to pay our liabilities. What we complain of is that in these matters we have not been allowed to provide for our liabilities and only have the balance brought in to tax. I hope, however, that we have been able to bring before you the facts in such a way that the Commission will see its way to make some matters clearer. I would now proceed to deal with the Revenue Act. The passing of the Revenue Act gave the Companies partial relief from municipal taxation, while at the same time it imposed a burden of taxation upon the companies that was very considerably in excess of municipal taxation. My own Company, for example, paid $2,600 or $2,700 of taxes to the City of Toronto, and I think for the first year under the Revenue Act, besides the tax paid to the City of Toronto, we have to pay the Government something like $5,500 as the tax under the Revenue Act; that is in round numbers, I think it was slightly over.

The CHAIRMAN: Does it make that much difference to you?

Mr. MACDONALD: Yes, we are paying in addition to the tax we pay the City of Toronto.

The CHAIRMAN: It was not reduced?

Mr. MACDONALD: No, and I would like to remark here that this question of municipal taxation is a two edged sword; it is a sword that is cutting both ways, it is driving capital and the investment of capital away from the centres like Toronto. The fact is that companies have to submit to a double taxation such as is sought for, and the other municipalities are seeking now for such changes as will bring about a further taxation, in fact the full municipal taxation that existed before the passing of the Revenue Act at all. In other words, outside municipalities are said to be seeking for such changes as will enable them to tax investments in the various localities, which will mean of course a double taxation, the taxation with the Government, and the other.

The CHAIRMAN: You say companies are being driven away?

Mr. MACDONALD: I say investments are being driven away from the City of Toronto.

The CHAIRMAN: Where to?

Mr. MACDONALD: Outside places, in order to escape this taxation.

The CHAIRMAN: Still, within the Province?

Mr. MACDONALD: Still within the Province, but the City of Toronto cannot tax anything that is outside in the Province, fortunately.

The CHAIRMAN: Of course we are considering the taxation of the whole country.

Mr. MACDONALD: Well, I am only mentioning that; that is a mere incidental matter; that is a question whether it is wise or unwise.

The CHAIRMAN: It does not matter where you are taxed?

Mr. MACDONALD: No.

The CHAIRMAN: If you were paying in other municipalities you would pay a like amount?

Mr. MACDONALD: In the other municipalities under the law as it is we hold that we are relieved from the taxation outside. The passing of the Revenue Act limited the powers of Toronto and such municipalities where head offices were situated to taxing upon investments within the municipality in which the head office is situated. That is the extent of the relief which the life companies had in the passing of the Revenue Act. Our objection to the Revenue Act is not to the Revenue Act in itself, but the objections are two-fold. Our first objection is that it imposes an unfair measure of taxation on the life companies compared with fire insurance companies, banks and loan companies; and our second objection is that it only gives the life companies partial relief instead of freeing them altogether from municipal taxation on income. Dealing with the first of these objections, the Act calls for one per cent. on the gross premiums on policies of life insurance companies in Ontario. The same Act only asks three-quarters of one per cent. in the case of a fire insurance company. Naturally we do not see why life insurance companies, which, as I have illustrated—

The CHAIRMAN: Do you know why that discrimination was made?

Mr. MacDonald: That is just what we have been trying to get at. We never have been able to get at that reason, although we have urged its unfairness, and I think its unfairness has been freely acknowledged on the part of the members of the Government before whom we have brought it. Then I would point to this as a ground that would make it appear I think somewhat more unfair to the life companies—

The Chairman: We have nothing directly to do with the Revenue Act, you know, Mr. MacDonald, only except so far as it may have a bearing upon the proper and just method of municipal taxation.

Mr. MacDonald: Well, I think that this will be found, and I think the Government will understand probably that it has a reference there.

Mr Justice MacMahon: Having that burden to bear as far as the Province is concerned, you are entitled to some consideration from municipal taxation.

Mr. MacDonald: Yes. I want to point out this, that in connection with the contracts of the two, contracts in the life insurance company are fixed for all time, and it has no power to recall its contract and fix a new one giving a higher premium commensurate with the increased cost, while a fire insurance company can at the end of one year or three years at the longest revise its entire tariff, recall its contracts, and fix a rate commensurate with the charges; and yet there is this discrimination. Then with regard to loan companies and banks, I will proceed to show you that we think there is a very great discrimination against the life companies in the mode of taxation in regard to both loan companies and banks. I think I may say that these three organizations, such as fire companies—certainly loan companies and banks—are organized for the purpose of making money for their shareholders, and I think the same thing cannot very well be said of life insurance companies, where only something a little over one per cent. has been paid in the shape of dividends to its shareholders of the amount paid to its policy holders it one year. While I am making these references to these companies, it is not to show than those companies are paying too little. We have no desire to interfere with those companies, but we have of necessity to refer to them to show that the life companies are paying too much. They may be paying quite enough and more than enough, but if they are then life companies are paying very much more than enough. Now I propose to test the unfairness of this tax by comparison of the tax paid by banks, by loan companies and by life companies on the basis of their shares, their paid up capital and the dividends to shareholders. In presenting this matter to the Government about a year ago it was thought when a comparison of this kind was instituted on the basis of capital that if the question of assets were brought into it it would show less favourably to the life companies, and one of the managers, Mr. Richter, of London, prepared a statement of which the figures I submit is a mere condensation, and submitted these to the Government.

The Chairman: On what occasion?

Mr. MacDonald: This was in 1899, the year that the Revenue Act came into existence under which the taxes were paid.

The Chairman: When that bill was under consideration?

Mr MacDonald. No, this is after the bill was passed, and this is the first year of the operation of the bill. We have tried to get the figures of the present year, but they not having been presented to Parliament we were unable to get them, the department did not see fit to disclose them; so that these figures that I give you are for the only year that we have under the Revenue Act. The loan companies' shares, $108,376,050; capital paid up, $29,544,521; dividends paid to shareholders, $1 768 671.69; the Revenue Tax under the Act, $20,020. Banks' shares, $335,626,425.

Mr. Wilkie: How do you ascertain those figures?

Mr. MacDonald: They are all given in the Government returns.

Mr. Wilkie: I do not see how they can discriminate between shares of Ontario banks and Lower Province banks. It is impossible.

Mr MacDonald: I have only got it in manuscript here, but this is taken from published accounts.

Mr. Wilkie: There are no published accounts dividing the shares between Ontario and the other Provinces.

Mr. MacDonald: I don't know anything about the shares. These are what is given by the different companies in the returns as prepared by Mr. Richter. I think I can produce the book in which they are.

Mr. Wilkie: There is no book published showing them.

Mr. MacDonald: I don't suppose there is any dispute as to the amount of shares and such like. The bank shares are $355,626,425; capital paid up, $51,337,990; dividends to shareholders, $409,694 03; revenue tax————

Mr. Wilkie: Excuse me, Mr. MacDonald, but those figures cannot possibly be correct; what are they taken from?

Mr. MacDonald: They are taken from the returns in the Government books.

Mr. Wilkie: But the Government does not publish any such returns.

Mr. MacDonald: Well, if I produce the matter that ought to be sufficient. I will undertake to put these figures before the commission.

Mr. MacPherson: Does this apply to Ontario alone or to the whole of Canada?

Mr. MacDonald: This applies to the banks that are paying the Ontario tax, and this shows the tax that is paid. The tax paid by the banks here was $38,446 79. These figures were taken from The Canadian Gazette. Now, the Canadian Life Companies' shares were $45,869,881; capital paid up, $1 787,181; dividends to shareholders, $87,884 10; amounts paid revenue tax, $39,446 79. In other words, the loan companies, for every dollar of tax paid under the Revenue Act, had shares of $5,413 38, and paid up capital of $1,475.75, and paid-up dividends to their shareholders of $88 35. In the case of banks, for each dollar of tax paid they had shares of $8,621.21, with paid-up capital of $1,318.71, and paid up dividends to their shareholders of $104.21. The life companies for each dollar of tax paid under the Revenue Act had shares $1162.82, as compared with $5413 38 in the case of the loan companies and $8621.21 for the banks; and a paid up capital of $45.21 as compared with $1475.75 of the loan companies, and $1318.71 in the case of banks; and $2 23 dividends to shareholders as compared with $86.35 in the case of the loan companies and $104.21 in the case of banks; showing there, I think, very conclusively that the life insurance companies were very heavily taxed, unduly taxed, as compared with the other parties that are taxed. Now, in bringing forward these figures I feel that it is somewhat invidious, but I cannot help it. It is the only way we have by which we can show the unfairness, and the measure of tax that is imposed upon us. We do not object to a tax. The life companies realize the fact that taxes have to be paid and the country's revenue has to be maintained, but we think that we are quite justified in saying that we ought only to be called upon to pay a fair measure and not an undue measure of that tax. What we ask the Commission, then, is to consider these matters and to take note of the life insurance transactions as I have endeavoured to present them before you, and we ask for two things. The first of these is, that the rate of taxation under the Revenue Act be reduced from one per cent. to one-half of one per cent——

The Chairman: We have no power to make any recommendation in that matter.

Mr. MacDonald: Well, we were given to understand that the Commission would.

The Chairman: No, we have no power to do that. That is purely for the Government, and they have not delegated anything to us or expressed any opinion about it.

Mr. MacDonald: That is one thing we ask for. Of course if the Commission feel that that is beyond the powers of their appointment, we are sorry for it. We rather hailed with a great deal of pleasure the meeting of a body of this kind, where we could take time to explain these things fully, with the hope that we might reach some reasonable and fair solution of our case. The second thing that we ask, I think, is clearly within the bounds of this Commission, and that is that the life insurance companies be relieved entirely from municipal taxation on income Those are the two things which we ask. While I have occupied a good deal of the time of this Commission and covered a good deal of ground, it is quite possible I have not covered everything, and if my fellow-managers who are here might wish to have something to say in addition to what I have said, unless it is to answer some questions I do not feel that I should say anything more.

The Chairman: Before you sit down I should like to ask you whether you have examined the way in which life insurance companies pay income tax in England?

Mr. MacDonald: I know that; I am aware of how they pay income tax there That is, the income tax is paid, certain companies pay an income tax.

The CHAIRMAN: How does the law in England square with your argument?

Mr. MACDONALD: Well, there is an income tax, I think, on the premiums there, just the same as the Government tax here, but I know of no municipal tax

The CHAIRMAN: I don't think there is. You say the income tax is upon the premiums?

Mr. MACDONALD: It is upon premiums, yes.

Mr. HUTTON: I would ask Mr. MacDonald what is the rate paid in New York State on premiums?

Mr. MACDONALD: I am not answering for New York. If this gentleman has any information about New York I suppose the Commission will hear it. If the Commission would like to hear something in regard to the States, I have a most excellent address by one of the best men in the United States dealing with that very question; I think it would be one of the best answers that could be given to this gentleman's inquiry, if he would like to hear it. It shows really the ruinous nature of them owing to the individual State laws. Some States, for example, exact so much from their own companies, just as our Province does here, and so much higher rate from outside companies; but the mere fact that a State does that is no justification, nor does it say that it is right, whether the State of New York charges or not, or what they charge; it does not make it right because New York State does it.

Mr. HENRY SUTHERLAND (Managing Director The Temperance & General Life Assurance Co. and Vice-President of the Managers' Association): There are only two things I want to say. The first is that where the Government require the companies to realize certain gains from interest that they must realize in order to supplement the net amount of premium paid to meet the claims falling due, it seems most unfair that they should lay down a law requiring that a rate of interest shall be earned which may not be met, and then allow the premiums to be taxed. Mr. MacDonald has pointed out that $268.40 is the net premium required for a single payment life at age thirty. Now, before the company can realize out of that individual policy-holder a sufficient amount to pay his own claim—and that must be done on the average or the claims cannot be paid—it must realize the difference between $268.40 and $1,000. That it can realize only from interest, and only from securing a rate of 4½ per cent. on that amount, which is the basis on which that premium is fixed. You gentlemen know full well that the rate of 4½ per cent. cannot be realized on such securities to day as are required to be held by the companies, to a very great extent at all events. The companies may, in some instances, realize 4½ per cent, but taking the securities on the average to-day that companies can invest their money in, they cannot realize 4½ per cent. Now, is it fair and just and right that the income from that money shall be taxed where it is not sufficient to meet the requirements of the law? When that law was enacted 4½ per cent. was supposed to be a low rate of interest, that the companies would, as long as these policies were in force, realize a much higher rate of interest. At that time, when no taxes were exacted, the companies fixed their rates on the basis of realizing 4½ per cent., and that is the basis on which all the old policies existing prior to the last year or two were issued; and the vast millions of insurance that have been referred to as being in existence are issued on premiums based on the same expectation Some are reduced to a single premium because some prefer to pay that way, and others prefer to pay annual premiums, and still others prefer endowments; but they are all based on the same expectation Now, the vast millions of insurance that are in force have been issued on the assumption that no taxes would be required, and they have been issued on the expectation that the Government would not require them to reserve on a basis higher than 4½ per cent. To day the law has been changed: it has been changed in two respects Our local Government steps in and says, "You must pay one per cent. on all the premiums you receive within the Province," and it makes that very wide, and the policies that have been issued within the Province, that may go away, are expected to still continue to pay their one per cent. In addition to that the Government steps in at Ottawa and says, "This basis of 4½ per cent. is not a safe basis, you cannot realize 4½ per cent. in the future; and while you have issued your policies on the basis of earning 4½ per cent., you must pay them on the basis of earning 3½ per cent." Now, where is that to come from, to make up the difference in reserve? It is a difficult proposition, I think, for you to decide where it can come from unless it is out of the moneys that are being taxed out of us, that are being

taken away from us. We do not see the fairness of being taxed by local Government percentage on our premiums that are paid to us, where they are paid on a basis that was never contemplated to require such taxes, and where it was never contemplated that a higher reserve rate would be required. In addition to that, we need this interest, as has been well pointed out by Mr. MacDonald. We must have the interest, even in the normal condition of insurance which we did expect to exist; we required all that interest to meet our reserve, all that $4\frac{1}{2}$ per cent. Now, the point I wish to make is this: That, so far as the interest is required to fulfil the legal requirements—for Mr. MacDonald has well pointed out that there are only two sources of revenue, the premium income and the interest income—so far as that interest income is necessary to meet the reserve requirements, it should not be taxed. It should not be taxed by either Governments or the municipalities, and that was the one point that I wished to draw your attention to. I would like to pass a paper in that you may read it, from which you will gain further light, as the reading would take up too much time.(*a*)

Mr. ALAN C. THOMPSON: Mr. Chairman, I do not represent life insurance companies, but I am strongly opposed to taxation on the premiums or income of those institutions. The only argument that has ever been advanced for taxation of the income or premiums or capital of the life insurance companies is the old one of expediency. "We have got to have revenue, and we are not very particular where we get it from; and inasmuch as the persons to pay this tax in the long run are the policy holders, the beneficiaries of the company, not the company themselves, we find that there is comparatively little objection to a certain amount of taxation provided the taxation is not so excessive as to materially affect the business of the company." In other words it is, as Fitch said long ago about direct taxation, "It is a means of getting the most value for the least amount of squabbling." Now, there has boen laid down as a proposition before this Commission in past days that taxation should be apportioned according to the benefits received from the expenditure for the purpose of Government and public conveniences. Now it is admitted, and must be on the face of it, that an insurance policy gets absolutely no benefit from public expenditure; therefore on that score there is absolutely no excuse for taxing it. But after listening to the argument of Mr. MacDonald, just as I expected, they are willing to pay a little bit; in other words, "You are picking my pocket; if you only take the small change I won't mind, but if you take more I am going to kick." Now, if it is just to take one-half of one per cent. on the premium of an insurance company, it is just to take two per cent., it is just to take ten per cent, it is just to take a hundred per cent. Any principle that is sound may be carried to its logical conclusion. I don't think anyone would say it would be right to appropriate the whole income of an insurance company or a bank or any other institution for the purpose of taxation; but there is one income which may be so treated—it is the income which is derived from the value of the land, and that only. That, as has been fully pointed out on previous days, is not produced by labour, it is produced by the community; therefore all can see the justice of it, it is something that may be so treated, it may be carried to its logical conclusion; you may take one per cent., or five per cent., or the whole of it and no one suffers. On the other hand, if it is not so taken the community does suffer. The fact that life insurance is simply a provision for old age and for the accidents of life I think has been very fairly gone into. I may mention in passing, though, that while there are large policies of life insurance companies—I believe one gentleman in this city has some policies of $100,000—yet the average is very low. In the North American Life, while the insurance is upwards of 22 millions, the average is only $1,300 per policy. The Canada Life is just a little over $2,000. The Confederation Life is about $1,400, and so on; while for the whole of Canada, including British, American and Canadian, the average life insurance policy is $1,118. I may just say in conclusion that the highest expediency is justice.

The CHAIRMAN: Where do you get those statistics?

Mr. THOMPSON: From page 90 in the Blue Book for 1899, in the introduction. These are not figured out there, I have reduced them

Mr. BUTLER: How would you arrive at your average?

Mr. THOMPSON: By dividing the number of policies in each particular case into the amount. In conclusion I may say that justice is the only and the highest expediency—in

(*a*) See No. 31 in Appendix *A*.

fact the only expediency. There is no foundation whatever in justice in taxing the premiums of life insurance companies, and therefore they should be allowed to be free.

The CHAIRMAN: Does that apply to the Dominion?

Mr. THOMPSON: That would apply to taxation from any sources whatever.

The CHAIRMAN: I mean your statement of the average?

Mr. THOMPSON: Yes, it applies to the whole of the Dominion.

Mr. MACDONALD: Mr. McCabe is here, and he is an old insurance man, and migh speak.

The CHAIRMAN: We would like very much to hear from Mr. McCabe.

WILLIAM MCCABE, (Manager of The North American Life Ins Co.): I will take up only a few minutes of your time. One prominent gentleman of the Commission has noted, while Mr. MacDonald was speaking, that the principles now applied involve double taxation I think that is a point that is well worth the consideration of the Commission, and certainly is an error that should be rectified. Attention has also been called to the fact that corporations of allied character are not taxed according to the same methods, in other words there are discriminations. Of course that certainly is a point which the Commission should carefully consider, and if such differences are found—as they will be found, and as they are easily ascertainable, not from my statements or from Mr. MacDonald's or from the statement of any other one who may address the Commission, but they are all in printed documents and official reports made to the Government by the officers and verified by the representative of the Government, the Inspector of the Life Insurance Companies, who examines the books and verifies every particular that is required by the Government in these annual returns—the Commission should rectify such a state of affairs There is no justification on any ground, as Mr. MacDonald has very fully and ably pointed out, for taxing the debts of life companies. The debts of no other class of taxpayers are assessed; and that is an objection to the application of the present assessment or revenue law which should be remedied; and if the Commission will carefully consider that point I think they will find ample grounds for recommending that some change be made in that direction. Just what the nature of the change should be I have no doubt Mr. MacDonald will furnish the figures to the Commission. It would not be practicable perhaps for the Commission to carry all this mass of figures in memory or by note, but when they get to the point to consider any particular change, Mr. MacDonald, as representing the Managers' Association, will no doubt place before the Commission official documents justifying every position he has taken. Of course it must be recognized that the subject is a very difficult one, and everyone coming before the Commission naturally is looking at the subject from probably a comparatively narrow standpoint. He is considering whether he is properly taxed He is desirous of escaping taxation as far as possible. What the Commission will probably feel inclined to deal with only would be some broad general principles, and these perhaps ought to be ones that would cover the taxation of the property that can be gotten at most reasonably and without throwing temptation in the way of the owners of it to conceal or make misstatements with regard to it. Just how far that can be done I have not considered the subject sufficiently to lay any opinion whatever before the Commission. I can see the difficulty of the subject, and I am confident that life companies anyway, and the general public will have a great deal of confidence in any report the Commission may see its way to make. While these difficulties exist, some general controlling principles ought to be arrived at and ought to be introduced into the legislation of the Province so as to deal as equitably and fairly as possible in regard to all classes of taxpayers. The subject is perhaps too wide for any Commission in the limited time, being all gentlemen engaged in active life and with very onerous duties to discharge, to possibly arrive at in one appointment; but certainly some great progress should be made in distributing the burdens of taxation more equally and equitably than they are now distributed. I think there is a great deal of force in the few remarks made by Mr. Thompson; and if it were possible to get at some system of taxation by which the property could be seen and appreciated, and such conditions as have been pointed out to day should not be found to exist in the application of the present laws, that this trouble should be surmounted wholly. The subject is a wide one, and has been carefully considered thus far, and some attempts have been made to introduce improvements, the general feature of all legislation seeming to be to tax something that is easily seen, and especially if it be the property of a corporation. In

regard to the particular class of corporations the consideration of whose taxation is now before the Commission the principle is an easy one. The general feeling is that it is a corporation; but if it be a corporation the business is so conducted that the burdens have got to be borne wholly by the policy holders, and if the law is so applied now as to impose those burdens upon the debts of the corporation, of course it is utterly indefensible. Secondly, if the law is now so applied as to lead to double taxation in several features of the business, it is also utterly indefensible, and no government such as our Ontario Government would think for a moment of having laws of that kind on its statute book. The life companies are now authorized to invest in the stocks of banks and trust companies and other corporations, loan companies, and so on. These companies, as has been pointed out by Mr. MacDonald, pay taxes on the dividends to shareholders. The North American Life and many other companies have stocks in banks and some in loan companies, and stock in trust companies and gas company, and in Toronto the assessment is made on the dividends paid by these companies. Then we are taxed again on the dividends we get from such companies, which is double taxation.

Mr. FORMAN: Oh no.

Mr. HUTTON: They are not taxed twice. They are only taxed in the hands of the recipient. They are not taxed against the Company.

Mr. FORMAN: That is right.

Mr. MCCABE: Does Mr. Fleming say that is right?

Mr. FLEMING: We are easy with you. I take Mr. Forman's statement.

Mr. MCCABE: Do you know of your own knowledge that it is right?

Mr. FLEMING: I think his statement is right.

Mr. MCCABE: Well, I took the precaution this morning to have a telephone message sent to the Manager of one of the companies that we have a large stock in—I will name the Company to Mr. Fleming or I will name it here if the gentlemen wish it. The Toronto General Trusts Company—I take that as a sample. I was advised there that we were assessed last year on the dividend paid to stockholders. We got part of those dividends; they came in our interest account; we were taxed on our interest, therefore we were taxed again on our amount of the dividend which had already been taxed.

Mr. MACDONALD: That is correct.

Mr. HUTTON: That is not the law.

Mr. MACDONALD: That is the practice.

Mr. MCCABE: That is not only the law but it is the law as applied by those judgments.

Mr. HUTTON: They may work it out that way in Toronto, but we do not do it that way in Hamilton.

Mr. MCCABE: I venture to say if it is looked into it will be worked out that way in Hamilton also. But I purposely asked Mr. Fleming, as the head of the Department, if he would dare to say that the statement I made was incorrect, and he gives Mr. Forman, who says it is incorrect. Mr. Forman may be speaking rashly, and therefore he should not speak rashly.

Mr. FORMAN: I am not speaking rashly.

Mr. MCCABE: Then The Toronto General Trusts Company had no object in misstating the matter to me over the telephone, and I have every confidence that their statement is correct, that they pay full tax on the dividends paid on their capital, and we also included the dividends we got on the shares we held in that Company and other like Companies, banks, etc., we include that in our interest receipts. The whole of our interest income was taxed again That is double taxation. I am so confident that the statement made by the Trust Company is correct that I will make this offer—if Mr. Forman will give $100 to any provident institution in town, any one at all, I will give double the amount, if my statement is not correct.

Mr. HALL: Extend that to Hamilton.

Mr. MCCABE: We don't recognize Hamilton here. (Laughter) I did not expect to speak here, and my remarks are very desultory and they have only developed by what has fallen from the speakers who have addressed the Commission.

Mr. CHAIRMAN: I hope you will go on, Mr. McCabe.

Mr. MCCABE: I don't like to take up the time with such thoughts as occur to me while standing on my feet. I have not prepared myself, and I have only dropped these

few remarks in the way that I have stated; but I regret to hear from Your Lordship that the powers of the Commission are limited. My understanding was that the Commission was looking over the whole subject.

The CHAIRMAN: Municipal taxation.

Mr. McCABE: Municipal taxation, yes. Well, I am confident that I voice the opinions of all the companies that we are perfectly willing to bear our proper and equitable share of the burdens of the Province. We recognize that the Government cannot be carried on without expense and without money, and we are willing to pay our proportion, but we strongly protest against being called upon to undergo double taxation or to be assessed unequally as regards others in a like line of business, and especially we should not be taxed under any circumstances on our debts. A large part of all the premiums paid by the companies are debts, therefore the law, as Mr. MacDonald has ably pointed out on that point, is utterly indefensible whether it is one per cent or half per cent or ten per cent on the premiums; and no matter what might be the practice in New York or Great Britain or elsewhere, what the Government of Ontario should seek is to first ascertain what amount of revenue they must have to carry on the affairs of Government, and then that will fall largely in municipalities on real estate. Outside of that, so far as the revenue is concerned, it will fall on the various other interests over which it can be equitably distributed, and it ought to be possible to devise a system which will make such equitable distribution.

The CHAIRMAN: You have given a good deal of thought to the subject; now will you tell us what you think would be just to life insurance companies in the matter of municipal assessment.

Mr. McCABE: Well, of course, it is limited, as Mr. MacDonald has very ably pointed out, to only a certain portion of the moneys that the Companies get. The Companies are trustees, they are depositories of those premiums, and they have only two sources of income, that is, the premiums themselves and the interest. Now, on the interest, so far as each premium is concerned, a large part of it has to be laid by, it is a debt

The CHAIRMAN: We understand that. Mr. MacDonald says you are willing to pay your fair share of taxation, and you say the same thing; now what would you conceive to be the fair thing to do, that is our problem, that is what we are considering here to-day, in what manner it would be just and fair to tax your companies; I would like to have your own ideas about it?

Mr. PRATT: What would you think of a license system?

Mr McCABE: Well, a license system has been tried in some Provinces. I think in so far as municipalities are concerned, especially in the location of the head office of the company, a certain number of companies—fire and life and banks, etc.—have head offices in Toronto. It seems to me that a license to do the business, whether it be $200 or $500 or $1,000, a license simply graded perhaps on the capital or resources of the company, would be one ready way of getting at the thing in a measure that could be easily fixed and in which there would be no temptation to conceal anything

Mr. PRATT: Would you apply it to the agencies as well as the head offices?

Mr. McCABE: I should think not, for this reason. Take the life companies and the fire companies and loan companies also and banks, they do their business through branches. In so far as companies get any return for the taxation from the locality I think it would be fair to impose some measure of tax. The companies having headquarters in Toronto get the protection of the lighting of the streets, and so on, of the city, and they have their head office here, these are taxed the same as any other real estate, and any property, any real estate they have, should be taxed.

Mr. PRATT: If they have a branch at Hamilton?

Mr. McCABE: If they have an office there, that will be taxed. Any company that has an office in Hamilton of its own—if it does not own its building it rents premises, and either the landlord or the company pays the tax on such building according to the agreement that may be made, so that the property, no matter by whom held, is always taxed. Understand, I am only speaking in answer to your question and without having given any careful consideration to it, but at first blush that is the way in which it strikes me, in all systems of taxation you want to remove the temptation of concealment from the party owning the property taxed, because it is human nature that a man is very poor when you want to tax him, he owns very little. That remark I think applies to corpor-

ations and human nature generally, so that you want to remove that temptation by getting at something that can be readily fixed and readily seen by the assessor. The combination of the license system, as one of the board has made inquiry about it, is I think a very happy idea and would cover a large part of what should be the burden imposed on these corporations—that, coupled with the tax based on perhaps the surplus of the Company, whether it be a bank or any other corporation. If it is a bank or fire company, and has stockholders, it is carrying on business with a view to making money for i s stockholders. If it makes money, let the persons receiving that money contribute a part—tax the surplus or tax the dividend. That is a matter that can be easily gotten at even without consulting the banks or officers of the company, because these facts are embodied in the sworn returns of nearly all those institutions, those returns are generally out within a year after; that is, for the business of 1899 the reports in each case were out a month ago. The sworn report for 1899 might be the basis of taxation on those points for 1900, or for the first year following the issue of the returns.

The CHAIRMAN: That is, a tax based on capital and profits?

Mr. McCABE: based on results of business, on capital if you like, too; on dividends both to stockholders and policyholders. Of course one of the dangers in any system of taxation is not to drive the business away from the locality, whether it be Toronto, Hamilton, or any other city in the Province, or Dominion, for that matter.

The CHAIRMAN: The first is license, you suggest?

Mr. McCABE: Yes.

The CHAIRMAN: Then the real estate?

Mr. McCABE: The real estate is taxed anyway.

The CHAIRMAN: Then the profits on capital?

Mr. McCABE: Yes, the surplus or increase of the year; that is all contained in sworn returns.

Mr. BUTLER: The surplus is the dividend.

Mr. McCABE: The surplus is what is available for dividend, and of course you are bound to carry out your contract, as Mr. MacDonald has pointed out very clearly and fully, and governments should not legislate so as to impair your ability to do that; but if you make surplus beyond that ability to carry out the contract, then that surplus ought to be taxable, and justly so.

Mr. WILKIE: You are speaking for municipal taxation?

Mr. McCABE: For municipal taxation, yes, for municipal taxation as well as other; of course we must recognize the fact that the Provincial Government has got to have revenue.

Mr. WILKIE: There is already a license system for the Province.

Mr. McCABE: With regard to banks? I was not aware of that.

Mr. WILKIE: Yes, the branches, etc.; then as regards the proposed tax upon income of companies of all sorts, shareholders already individually pay that.

Mr. McCABE: Well, where that is done you must guard against the imposition of double taxation.

The CHAIRMAN: Are there any mutual life companies which have no capital at all?

Mr. JUSTICE MACMAHON: There is The Waterloo Life, represented by Mr. Hoskin.

Mr. MACDONALD: The Mutual Life of Canada has no stock, that is what was formerly called The Ontario Mutual.

Mr. JUSTICE MACMAHON: That is The Waterloo Company?

Mr. MACDONALD: Yes.

The CHAIRMAN: So that a difference might have to be made in dealing with those two classes.

Mr. MACDONALD: Of course there are American mutuals and British mutuals. The Mutual of New York is operating here, and The New York Life.

The CHAIRMAN: Do you represent foreign companies?

Mr. MACDONALD: No, I represent The Life Managers' Association, representing domestic and British companies.

The CHAIRMAN: Your companies have not agreed upon any particular plan?

Mr. MACDONALD: I would call the Commission's attention to the fact that I presented what the companies ask for, that we ask for two things distinctly on behalf of

the companies: First, that the recommendation of the Commission be to reduce the Government tax under the Revenue Act from one per cent. to one half of one per cent

The CHAIRMAN: Well, that we cannot do

Mr MACDONALD: And secondly we ask that the companies be relieved from taxation on income

The CHAIRMAN: Yes, but what we want to know is this: You say that you are willing to bear a fair share of taxation. What taxation are you willing to bear and how should it be assessed?

Mr. MACDONALD: The tax levied by the Ontario Government we think is a fair as any tax that can be imposed on companies.

The CHAIRMAN: You think that is all you ought to pay?

Mr. MACDONALD: We think so.

The CHAIRMAN: You ought to be exempt from municipal taxation altogether?

Mr. MACDONALD: Except as far as our real estate is concerned; but I would like to point out this fact to you, that in any case it would be a double taxation. First of all the premiums out of which the reserve is created are taxed by the Ontario Government.

The CHAIRMAN: I am not asking the reasons now, I am only wanting to know what you think would be a just rate, a fair law.

Mr. MACDONALD: Well, after consideration, the life managers at their meeting, decided on what I presented

The CHAIRMAN: There should be no taxation of your companies but real estate?

Mr. MACDONALD: Real estate and dividends to shareholders, that is, profits to shareholders.

Mr. JUSTICE MACMAHON: They pay that, anyway.

Mr. MACDONALD: They pay that, anyway, themselves.

Mr. JUSTICE MACMAHON: And in the case put by Mr. McCabe, where they were taxed from the company that received and also from the company that paid them, there must be some mistake, or else there is double taxation there.

Mr. MACDONALD: My experience confirms Mr. McCabe's statement. I think that it is quite true that we were taxed upon the income; for example, dividends upon its gas stock and upon other sources of income that we have in the city of Toronto in the shape of interest, and then the dividends paid to shareholders. Of course we give a certified copy to the Commissioner for the purpose of collecting the tax upon the dividends paid, and I presume the tax is levied. If it is so levied, then there is a double taxation.

Mr. JUSTICE MACMAHON: Do you lend on these stocks in your company?

Mr. MACDONALD: We both lend on and own them.

Mr. JUSTICE MACMAHON: Of course if you are getting dividends on the loans, the only way would be to tax them in your hands.

Mr. MACDONALD: The return is made up in this way. Suppose a loan is made upon the security of bank stock or loan company stock, the return from that is given to the city of Toronto on which the tax is levied. There is also given to the city the income on dividend that is derived from stock owned by the companies

Mr. JUSTICE MACMAHON: Of course on stocks held by the company as investment itself there could not be any double taxation.

Mr. MACDONALD: Except so far as the profit accruing to that through the stockholders again, and to the measure of that there is a double taxation.

Mr. WILKIE: By whom is that statement furnished to the Assessment Department?

Mr. MACDONALD: They get the figures from the company, at least they do from our company.

Mr. WILKIE: If the company hands in a statement showing income on investments of that sort, the tax upon which has already been paid by the company from whom they receive it, there is evidently a mistake.

Mr. MACDONALD: Of course we cannot deal with that. What guides my company in the statement given to the Assessment Commissioner is that which has been laid down by the County Judge as the basis to be taxed, limiting, of course, the circuit to the business derived from Toronto; that is to say, interest upon all investments in Toronto, whether it be for bank balances, whether it be on temporary loans such as loans upon stocks, or upon mortgage investments or stocks owned by the company—all these are subject to taxation. Then any amount from the surplus of any year that may be carried

to the credit of our shareholders' account also comes in for taxation. It is very clear, if after all that has been taxed in this way directly against the company, that the shareholders are individually taxed on dividends paid to them by the company; to that extent there is a double taxation.

Mr. BUTLER: It cannot be avoided, that I can see.

Mr. WILKIE: Mr. McCabe goes beyond that; he says the dividend received by the company is taxed twice.

Mr. MACDONALD: Mr. McCabe probably spoke of where the companies paid the dividend. Formerly we did that, but of late years we have not paid the dividend. Under the assessment we paid the assessment to the city on the amount of dividend paid to the shareholders, which was the measure of the assessment.

Mr. WILKIE: That is what the Trust Company does, probably.

Mr. MACDONALD: Probably the Trust Company is continuing to do that. I understood from Mr. McCabe that is what was done.

Mr. MCCABE: Yes, that was done. I telephoned this morning to The Toronto General Trusts Company on that point, and I was informed that they paid taxes on dividend on capital stock; and we are owners of a portion, a hundred odd thousand say, of the capital stock of that company, and we pay taxes on the interest that we received from them, they having paid on the whole of the capital stock before. We having paid on the portion that way, hold that was a double taxation. The new law I understand only came in force a year or so ago, so possibly some irregularities may have arisen from oversight, but it was so applied to us although the representative of the city thinks differently, but I am confident that what I am stating is correct, and it will be found so by that gentleman when he looks into it. Of course that is a feature of the law that ought to be cured, and will and must be cured if it has got to be contested, but it was not worth while, it costs almost the amount taxed to have a law suit about it.

Mr. MACDONALD: Something more.

Mr. MCCABE: Mr. MacDonald, representing the Confederation, knows from experience, and he says it costs more. Mr. Fleming, the Assessment Commissioner, is here, and he is a man of great experience in business and knows what ought to be done, and I think would act reasonably on these matters if an appeal were made to him. He does not want to tax anybody twice.

Mr. FLEMING: Hear, hear.

Mr. FORMAN: Sorry to tax him once.

The CHAIRMAN: What you speak of might happen without the knowledge of the Commissioner.

Mr. MCCABE: Oh yes, this is the first year under the new law; but what I am trying to urge before the Commission is that the principles now applied are incorrect and indefensible because they amount to double taxation in a great many respects, and I cannot too strongly urge that the Commission consider this aspect of the case as fully as they can and place the Companies on the same ground as the banks and the fire insurance companies and the loan companies and accident companies, whatever that may be. Then having done that, tax what ought to be taxed; that is, don't tax any of them on their debts, and perhaps the simplest way of getting at what should be taxed is their income, the amount of surplus they make, which is an ascertainable quantity which can be found readily from their books and reports they make, sworn statements to the Government on this subject, and there would be no intention I think of any of those bodies to make any concealment, they would state the matter fully.

Mr. JUSTICE MACMAHON: The surplus would be what you would call net income?

Mr. MCCABE: The net income, surplus made in the year, according to the business of the year. Sometimes a bank will make 50 per cent. one year more than it did the other. Business fluctuates, and they can afford to pay a tax on their surplus, but a life company, having only two sources out of which it makes an income, that is the premium and the interest earned, and having to lay by in order to meet its contract a large part of the premium as reserve on the policy, which is a debt, should not be taxed on that, but if you tax it on its premiums you are taxing that.

The CHAIRMAN: Out of what do they make their profits which they pay to their shareholders?

Mr. McCabe: From several sources The first source is from policies that are issued on the "with profits" plan. Well, the business is so conducted now that you cannot do new business without using the whole of the part that is added to the net premium as "loading," and you have to use so much more of that that you don't begin making any surplus for perhaps two or three or four years, but at the time you begin to make surplus, then out of that surplus at intervals, whatever it may be, you distribute the surplus at intervals according to the contract. One of the main sources of the surplus is your being able to put out, to invest, the moneys that come in, in securities, which are limited by law in the case of life companies, at a rate which exceeds that fixed by law for laying by your reserves. At present the Dominion law under which nearly all the life companies are doing business requires that they make 3½ per cent. on the reserve part of the premium. That is, call the premium $100, and say the reserve is $50, they must make 3½ per cent of $50 and improve that according to the nature of the contract, so that it will amount to the face of the contract if it runs outside of that term.

Mr. Justice MacMahon: There is a considerable sum realized by every company from lapsed policies

Mr. McCabe: Yes, sir.

Mr. Justice MacMahon: It runs up into a good many thousands I suppose every year?

Mr. McCabe: Yes, sir, a very large quantity. In nearly all companies a policy has a surrender value after it has been in force three years, that value varying according to the premium which has the reserve, as pointed out by Mr. MacDonald.

Mr. Justice MacMahon: He does not put very much in his pocket.

Mr. McCabe: The policy holder, no, he does not, and he does not understand exactly why, it he pays a premium of $100 for three years and has not died, why he should not get the whole $300 back; but while he has not died there are numbers of others who have died, and part of their amounts have been paid out of this premium; he contributes to pay their losses and contributes to pay the expenses.

Mr. Justice MacMahon: I notice from the returns that the lapsed premiums are very large.

Mr. McCabe: Yes, in some cases.

Mr. Butler: Isn't it so that the mortality table in Canada is somewhat more favourable than the actuaries' tables?

Mr. McCabe: Yes. That arises from the fact that in nearly all our companies, the great bulk of our policies are relatively new, they have not been in force anything like expectation, and therefore the mortality is not as great as that expected and provided for by the tables; but that is a source of income that you cannot very well gauge, from the nature of the average mortality. The companies cannot tamper very much with that; they must always estimate that that is to be heavy, but at long intervals they may give away part of it perhaps. It is a business that is hedged round very closely, and the margins are relatively small.

The Chairman: Speaking for myself I would like if you could agree upon a plan of taxation that you would approve of; that would be an assistance to us, because that is what we have got to devise.

Mr. McCabe: I am quite confident there will be no difficulty in all the companies agreeing on a measure that would be defensible.

The Chairman: It is a good deal as you point out that you are unjustly taxed at present, but you must go farther than that.

Mr McCabe: Did I understand from your Lordship that you would receive a paper that the Canadian companies might make up on the subject and consider it?

The Chairman: I was in hopes that you were coming here to-day with a plan of that sort.

Mr. McCabe: I have been away a good deal and have not conferred with the Committee. The president, Mr. MacDonald, has given the matter very good consideration and has presented the matter fully; but while that is so, personally I recognize the fact that the Government has got to have certain taxes, and the point is to show the Government what is really taxable of the property held by the life companies. Now I am sure that all the companies would heartily concur in laying that before the Commission

and making the recommendation, with a view to save your time. We will carefully digest that and submit that at as early a date as possible. I think I am right, Mr. MacDonald?

The CHAIRMAN: You see, the municipality has got to have a large amount of money in order to carry on the business of the city, speaking of Toronto and the other cities, and the country municipalities as well have got to have so much, and somebody has to pay it, and the question before us is what proportion of all that the insurance companies ought to pay. You tell us that they are paying now an unjust proportion, more than they ought to pay, and we would like to know what your ideas are, because you see the thing much more closely and clearly than we do. What would be fair as between other corporations and private individuals, and so on?

Mr. MCCABE: With a view to save the time of the Commission might I ask your Lordship whether, if the managers of the companies can agree on a plan which they think is just and fair with themselves and other companies, against which there is not the discrimination, you would receive their memorandum?

The CHAIRMAN: I think we would like that very much.

Mr. MCCABE: Mr. MacDonald, there is no trouble in that?

Mr. MACDONALD: I can only say that we have represented, in what I have stated, precisely what the life managers recommend. The life managers can meet again.

The CHAIRMAN: That there should be no tax but upon real estate?

Mr. MCCABE: We take it for granted that the Provincial Government needs the money, is bound to have it.

The CHAIRMAN: We are not speaking of the Province now, it is the municipalities.

Mr. MACDONALD; So far as the municipalities are concerned the decision of the life managers, after very careful consideration, is just what I have stated to the Commission, that they ought to be free. There are two things.

The CHAIRMAN; That they ought not to be assessed on anything but real estate?

Mr. MACDONALD: Precisely, on the real estate, and that they ought to be free from municipal taxation.

Mr. JUSTICE MACMAHON: That is to say, we ought to take into consideration the fact that the Province exacts from you a certain percentage on what enters your coffers?

Mr. MACDONALD: Yes.

Mr. JUSTICE MACMAHON: And that by reason of that you are entitled to some consideration from the Commission?

Mr. MACDONALD: Precisely.

Mr. JUSTICE MACMAHON: While we cannot say anything in regard to the provincial tax, we can only in our report refer to it, if we make a change, as one reason why the change was made.

Mr. MACDONALD: Yes, I think His Lordship's view is the correct one. We of course were under the impression that this whole question was coming before the Commission. Indeed we had reason to suppose before the Commission was appointed that it was one of the things that would come before you, therefore the misunderstanding is very easily reached, as you can see. But we think that even now it would be quite proper for the Commission to take cognizance of the Revenue Act, take the view which His Lordship Justice MacMahon has expressed in regard to this matter, that there is a provincial tax and that in view of that provincial tax there ought to be whatever measure of freedom from municipal taxation you consider would be due.

The CHAIRMAN: To that extent it is open to us.

Mr. MACDONALD: But whether the managers might meet again and consider the matter, I can only say that what I have represented is the deliberate, final conclusion reached by The Life Managers' Association of Canada, and the unanimous conclusion. They look upon it as a simple matter, and it gets aside from all this investment, and gives freedom from municipal taxation, except so far as profits and payments to shareholders.

Mr. JUSTICE MACMAHON: There would be no difficulty, then, Mr. Macdonald, in counsel for the companies preparing a clause for insertion in the Assessment Act which would completely embody your views in regard to assessment?

Mr. MACDONALD; We would be very glad indeed. I should be very glad on behalf of the Managers to pledge that that will be done, and if the members of the Commission would like this put in a more definite shape I should take care to have it prepared

and printed, but I take it from the presence of the shorthand writer here that you will have all the facts before you.

The CHAIRMAN: Oh, we will have everything. Everything is distinctly taken down.

Adjourned at 1.30 to 2 o'clock for lunch.

On resuming:

The CHAIRMAN: I was going to ask you, Mr MacDonald, with reference to your suggestion that it would be a just and fair assessment on the insurance companies to confine the assessment wholly to their real estate. Well, take The Canada Life Company, for example. I see their stock quoted at 500 premium, and I suppose they pay correspondingly large dividends to their shareholders?

Mr. MACDONALD: They did formerly, but this last year they have paid a very moderate dividend, indeed.

The CHAIRMAN: I know from a case that was before us that they appropriated a very large percentage of their surplus, whatever it may be, to their policies.

Mr. MACDONALD: Formerly, but that is not the case now. Formerly 25 per cent. of their surplus went to the credit of their shareholders' account, but by Act of the Dominion Parliament their Act was changed, probably ten years ago at any rate, that limited it to 10 per cent.

The CHAIRMAN: That is what I say, that I observed in a case that was before us in Court, that as the law stands now they appropriated a very large percentage of their available surplus to their policy holders, not to their shareholders, and the amount which is left for dividend is comparatively small, but yet it shows what large profits they are making, partly for their shareholders and largely for their policy holders, so that it is a very large money making business apparently.

Mr. MACDONALD: That is what I endeavoured to point out when I was describing or attempting to describe the nature of life insurance contract, that that was entirely a misnomer to call that profits that went to the policy holder.

The CHAIRMAN: But these profits are given to the policy holder?

Mr. MACDONALD: It is the share of surplus, as I pointed out, that belongs to them. For example, a participating policy holder will pay, perhaps, a 15 per cent. higher rate on premium than a policy without profits. He pays that with a view to get the benefit of any division of surplus, a share of surplus.

The CHAIRMAN: Just as any other shareholder does. The policy holder is partly a shareholder and partly a policy holder.

Mr. MACDONALD: If there is a surplus he is getting back that surplus, but as a matter of fact at the last division of the Canada Life, a year this month, they practically made no surplus at all and gave comparatively little dividend either to shareholder or to policy holder.

Mr. JUSTICE MACMAHON: Why?

Mr. MACDONALD: Because they hadn't a surplus to divide, that is what we assume. They had so much to make up. You know the Dominion Parliament in 1899 changed the law regulating the reserves of the life insurance companies.

The CHAIRMAN: By reason of the fall in interest?

Mr. MACDONALD: The fall in the rate of interest, and after full consideration the rate was changed for all business entered upon in the year 1900 from 4½ to 3½ per cent. That is to say, in estimating the value of the future payments to be made by the policy holders under their policies the companies were not allowed to assume that those could be improved at a higher rate than 3½ per cent, instead of 4½ as before. Of course you will understand that the value, the liability or reserve needed under any particular policy, is the single premium less the present value of the future annuity represented by its premiums improved at the rate of interest assumed. Then that was as to new business. As to the old business there were certain liberties given to the companies with a view that justice might be done to the older policy holders. If that change were made at once arbitrarily, and made to touch all the business of companies old and new, it would call for such an additional amount as reserve as might tax severely the companies, and would preclude the companies from doing anything like justice in the way of share of surplus to

those policy holders who have been in a company for a number of years. Assume, sir, that you had a policy in that company that may have been running for thirty years. The change, if made altogether at once, would have put such a strain upon it that probably during the remaining years of your life you would have got no benefit from surplus at all, notwithstanding that you had paid the premium all those years to entitle you to it, and hence some years were given to bring the change gradually from 4½ to 4 per cent. and then from 4 to 3½ per cent., to which all business, old and new, is to be brought. The Canada Life has anticipated the operation of that law to some extent, and has made a partial provision for the change, which has absorbed a greater portion of what otherwise would have been surplus. That is practically the position of it.

Mr. JUSTICE MACMAHON: And therefore the stockholders get a very small dividend?

Mr. MACDONALD: Get a small dividend, and the policy holders get a small dividend. For example, at one time and for many years the Canada Life paid a bonus of $25 per thousand for each year. Now I think it is $7 or $7.50—8 per cent. only.

The CHAIRMAN: At all events, my difficulty with regard to insurance companies at present appears to be this: After all, an insurance company is a company established for the purpose of making money, for the purpose of making profit either to their shareholders or to their policy holders. The difference in the case of the insurance company is that it pays its profits partly to the policy holder and partly to the shareholder. In another kind of company, a manufacturing company, the shareholders put their money in expecting to get a return; that is their object, and they carry on business for that purpose. It is the same with regard to the policy holder; he takes out the policy, pays his premium, pays more in order that he may share the profits, or he pays less without profits, but after all it is in order that he may make a profit. In the event of his death within a short time his estate will get back a large sum in consideration of what he has paid, or if he lives a long time he still gets back what is right for the money which he has invested. Now it is not easy to see what distinction there ought to be made between a life company and any other company which is incorporated and carried on for profit.

Mr. MACDONALD: The distinction is that which I endeavoured to make, that when we were purely under municipal taxation we were taxed on our liabilities. That was our complaint. That is our complaint still, that so far as municipal government is permitted to do so, under the Revenue Act——

The CHAIRMAN: In a sense the stock or shares of a company is the liability?

Mr. MACDONALD: Yes.

The CHAIRMAN: Isn't it in the same sense with a life company?

Mr. MACDONALD: No, because in an ordinary company you have not got to put up anything as against the agreement for the fulfilment of the insurance contract, which is as much a contract as a promissory note, or more than that, is a sealed document where the company undertakes to increase that amount from year to year in a certain way; and we say, relieve that from taxation. That is what we have claimed all along. We have not claimed further freedom from taxation until we came to have the effect of the Revenue Act imposed upon us. Of course we can understand that you may be somewhat staggered by these large figures and apparently large earnings or profits, as you say; but it is not only the Province of Ontario that claims taxes from us; the life insurance companies pay in the Province of Quebec 1 per cent upon the premiums. Whether it was a good thing or a bad thing on the part of the Province of Ontario to impose those taxes of 1 per cent it has been an example that has unfortunately been followed by the Province of Quebec, by the Province of Manitoba, and is certain to be followed by the Provinces of New Brunswick, Nova Scotia, Prince Edward Island and British Columbia; so that in each of these places the companies are paying just as in the Province of Ontario. And they are paying this 1 per cent upon the Quebec and Ontario premiums now, and no doubt in the near future the others will tax upon the premiums in those Provinces, so that in the aggregate that represents a very large tax, and the question is, is that not a fair and sufficient tax considering the peculiar nature of life insurance?

The CHAIRMAN: Every other stock company which has a capital paid up could use your argument. They say, "This company owes every shareholder his share of capital, it is a debt, and therefore it ought not to be taxed."

Mr. MacDonald: But you tax the profits upon it. We have no objection to the taxation of the profit upon that capital.

Mr. Justice MacMahon: You simply object to pay on the premiums that are paid in, which you say forms a debt due by the company?

Mr. MacDonald: Yes. As soon as they are paid to the company they create a debt. You see, no objection is taken to any profits, and all profits going to the shareholders are to some extent a measure of the profit earnings of the company, and the question is, is that a fair way, is it a sufficient and complete way of getting at what are fair earnings?—No objections to that. But our contention has been all along that we have been, up to the 31st December, 1899, compelled to add 4½ per cent of all that interest we have earned to the increment of our reserve, and yet that 4½ per cent has been subject to taxation. That is what we complain of; and we say that that is no more liable to taxation than the goods in a wholesale merchant's warehouse, where he has $100,000 worth of goods, and he owes $50,000 on them, and he is only taxed on $50,000. Now, we have no objection to the merchant at all, but we do object to be taxed upon the whole corpus.

The Chairman: Your policies do not agree to give any particular sum for profits to the policy holder?

Mr. MacDonald: No—as can be ascertained from time to time, usually a quinquennial investment.

The Chairman: If you have to pay some other tax, that would be deducted and the remainder would be distributed among policy holders.

Mr MacDonald: Yes.

Mr Justice MacMahon: There is a policy that you agree to pay a certain sum at a given period on the payment of a certain amount?

Mr. MacDonald: That is an endowment policy, but that, I take it, is not Mr. Justice MacLennan's question.

The Chairman: I am speaking of the ordinary participating policy.

Mr. MacDonald: There is nothing there that is fixed. There is a mischievous thing called estimates that is sometimes given, but there is nothing fixed as a fixed quantity It has been suggested to me that I should set forth to the Commission the companies that are represented by me to-day on their behalf. They are as follows: The Canada Life, The Confederation Life, The Dominion Life, The Excelsior Life, The Federal Life, The Great West Life, The Imperial Life, The London Life, The Manufacturers Life, The National Life, The North American Life, The Northern Life, The Ontario Mutual, The Royal Victoria, The Temperance & General, The Sun Life, The British Empire, The London & Lancashire, and The Standard Life.

The Chairman: Are you representing any mutual life companies here.

Mr. MacDonald: I represent The Mutual Life, The Life Association of Canada.

The Chairman: Do you make any distinction between your companies and them?

Mr. MacDonald: No, they are at one with us in regard to this matter.

The Chairman: It does not occur to you that there ought to be any distinction in the mode of taxation?

Mr MacDonald: I think not. There is just this about it: In what we ask there is a simplicity in the taxation that in itself would commend the scheme. The Provincial Government have affirmed the principle that they have a right to tax, and they have imposed a tax, therefore it is very direct and simple. I don't know of any other way in which you can get at it. Of course it can be ascertained either from the yearly or the quinquennial valuations and assumptions that are found in connection with those valuations, and getting in all statements where you can ascertain the exact surplus, but the question of making surpluses a basis of assessment has very great difficulties connected with it. You take such a case as that we have been speaking of, The Canada Life, for example. Practically The Canada Life would escape taxation because of the practical condition of insurance if you depended upon surplus.

The Chairman: How?

Mr. MacDonald: Simply because they practically had no surplus to distribute last year. I am assuming that now as an illustration.

The Chairman: You would confine it to the distributable surplus?

Mr. MacDonald: Yes, but suppose, for example, that it is a voluntary act on the part of the directors of the Company to assume more than——

The CHAIRMAN : They do not distribute it at all, they appropriate it to the policies ?

Mr. MACDONALD : They appropriate it to the reserve.

The CHAIRMAN : And keep it in their own hands ?

Mr. MACDONALD : Keep it in their own hands, and therefore there is no surplus to distribute.

The CHAIRMAN : Until the policy becomes a claim.

Mr. MACDONALD : In order to meet the Government requirements. Then in regard to the license of the municipality or the Government, it is not without its difficulties, because it might work somewhat unfairly in connection with smaller, young companies. A company of considerable magnitude and of age can the better afford to pay than a new company struggling into existence That will readily commend itself. So that whatever system it is, there are difficulties that present themselves, and these seem to show that something direct and simple is better for all purposes.

The CHAIRMAN : No doubt about that. Is there any one else representing the companies who would like to speak ?

JAMES A. THOMAS (representing The London Life Insurance Company of London, Ontario) : I feel that there are some things that apply peculiarly to The London Life as I understand it that may not apply to the others, and therefore I think it well to say something, because I have discussed this matter with our manager. I would very much rather he had been here to do it himself. Our company has no objection to pay their fair share of taxation in connection with all others, and Mr. MacDonald has fairly represented us, but the question is on what basis are we to be taxed ? I am not prepared to say myself what that basis should be, but I can give you some ideas as to how the manager looks at it. In the first place the premium is not the proper basis for arriving at an assessment for taxation, because the premium is more like the consideration paid for the goods over the counter. You might as well talk about taxing the merchant on the amount of goods he sells over his counter as to talk about taxing an insurance company for the amount of premiums. The policy is our goods that we have to sell, the premium is the consideration we receive for it. That is more nearly the basis which the premium bears to the policy than anything else you can introduce ; but at the same time there is possibly the surplus, in other words, the profit, surplus that should be provided for, but it would be very small. Now in our particular case, in the London Life, there is nothing of that kind at all. We claim that every dollar that goes to our stockholders has been earned by the stockholders' money. There is no padded stock in the London Life.

The CHAIRMAN : That is so in every company.

Mr. THOMAS : Well then, that is the answer to your question this morning to Mr. MacDonald when you said, " Where did you get the money to pay your stockholders' dividends ?" We got it in the London Life out of the earnings from their money ; and I say without fear of successful contradiction that the London Life stockholders have never got back more than about 80 per cent. of the money that they have earned by their actual money. In years gone by when they were earning large interest they only drew 6 and 7 per cent., those who had an additional liability as being directors, and we were earning at that time 8 and 9 per cent. In other words, the money that their money actually earned never came back to them at all, and even now when they are getting 6 per cent. and only earning 5.60, the policy-holders are still in debt to the stockholders whose money has earned for them more than they ever got back in dividends. But there is no objection on the part of the London Life or any other company that the stockholders should be taxed for that income, but it is not wise, nor fair, nor right at all to start to assess the company on the basis of its premium income. I say that is the price they receive for their goods, and you would have to look a long time before you would find that would bear any proportion to the actual net earnings of the company. Those are the particular points on which our manager wishes to lay stress ; and he says another thing to be borne in mind—and Mr. MacDonald has referred to it perhaps better than I can—that a life insurance company is in a very peculiar position, their contract is a long one ; we have promised our policy holders a certain thing for a certain consideration and those contracts do not mature for years to come and it is very hard for a new burden to be placed upon us now. It is doubly bad because interest has gone down, and then if we have to pay an additional tax, that makes it very hard for us to fill our contracts. There should be some basis, and our manager thinks that the basis that should be established is on the actual net

profit that there is in it. Now the net profit in a life insurance company conducted as it is to-day is nil, and comes right down to where Mr. Macdonald starts out, that we should not be taxed at all; but if there is stock in it, that should be taxed; if there is real estate in it, that is where the money has gone, let it be taxed in a municipal way. But there is another question which perhaps is my own thought, and an independent one although in discussing with my manager he does not quite agree with me, but I think it is worth consideration; the question of taxing should be something more along the lines of manhood tax. We hear a lot of manhood suffrage, any amount of men who will stand up before you and say, "I have as good a right as you to have all the privileges of this state because I am a man." Well, I say he is only half a man if he won't pay his fair share of footing the bill of expense of the state. I go further than that, and I say that a man who earns a thousand dollars and uses up a thousand dollars is not worth anything at all to the community in which he lives from a municipal and state standpoint. You may think that it is funny, but I have my reasons for it. I say this, that during the time of prosperity, the time of peace, we do not want that man at all, but it is the thrifty man that saves his money, that becomes worth something to his municipality and to his state when we pass through our times of depression and times of war. The man who earns six dollars a week and spends six dollars a week is not worth anything to the state; he has lived that within himself; he has spent it on his family and all this, and the only man that is any use in a proper sense to a municipality or state is the man that has a surplus, the man who earns a thousand dollars and saves two hundred dollars of it for a rainy day, the man who helps to carry us over the times of depression and the times of war, and I say that that is an increment that should be taken into account and that we should come more nearly to it and have manhood taxation as well as manhood suffrage. These ideas seem to me to strike at the root of the matter, and I want to impress on you that all the money that has ever been paid to the stockholders of the London Life—and I may say of other companies—has been put into it. It is almost impossible to say that that premium bears any relation to the net results that should be taxed by the municipality or the Government.

The CHAIRMAN: You say, then, that insurance companies should not be taxed at all for municipal purposes?

Mr. THOMAS: They ought not.

The CHAIRMAN: They ought to contribute nothing?

Mr. THOMAS: Nothing, unless they have real estate or something which brings a revenue, and for which the municipality will suffer something in consequence and they will derive some corresponding benefit. If a man has a building he wants his street provided for and light and police protection and that sort of thing, and he pays, but that is on the basis of his real estate. If there is any stake in the matter he is in a similar position, and the insurance companies do not object to that, but we want to be put on a basis similar to the rest of them.

The CHAIRMAN: Are the fire insurance companies represented here, or any of them? Have the municipalities anything to say on this question?

Mr. MACKELCAN: I will make a few observations on the subject. We have listened to-day to gentlemen who have followed on the line adopted by advocates who have appeared before this Commission from day to day urging that while it is a right principle that all the property in a municipality should contribute its fair share towards the local expenditures of that municipality, there is some special reason why the companies or the classes that these gentlemen represent should be excepted from that general rule. One of the reasons advanced by Mr. MacDonald against the taxation of the funds of life insurance companies or of their income was that it would tend to repress thrift if they were taxed. There are different ways in which men think it wise to make provision for their families, and one of those ways is by investing their moneys in life insurance. Another is in buying a home for the family. One man may thing it would be a judicious thing to buy a home upon the instalment plan. He puts down what he can spare at the beginning and he makes a monthly or annual payment afterwards until by degrees the home becomes his own. It is probably purchased in the name of his wife, just as a life insurance policy is taken out in the name of a wife, in order that it may be a provision for her in time to come. The man who buys that home has to pay taxes on it from the moment he becomes the purchaser, and it might as well be argued that to tax that home

would be to repress thrift as to argue that to tax profits derived from an investment in life insurance would be to repress thrift. They are merely different forms of investing the money which a man is able to spare from his earnings in order to make provision for the future, either for himself or for his wife and children. The fund which is in the hands of a life insurance company for investment might be looked upon as a family fund which is managed and invested for the benefit of those who are interested in it, the life insurance company taking the place at the head of the family and investing the funds for the benefit of those who are policy holders in the company. I regard the premiums that are paid in as capital invested, and the interest or earnings from that capital should be liable to taxation though invested through the instrumentality of the company, to the same extent and in the same manner as a man might invest them himself. A man, if he had sufficient firmness to do it, instead of buying a life policy, might say, "Well, I will lay by so much every year and I will allow that to accumulate, I won't touch either the principal or interest. I will re-invest the interest every year and in that way I will accumulate a fund that will be quite a competency for me when the time comes that I may have to fall back upon that," and that would sometimes be a very much more profitable investment than life insurance. A man only makes a profit on life insurance if he dies early, or dies before he has paid a great many premiums. The fact is, the man who lives on, if it is a life policy, is paying for the losses of men who are less fortunate otherwise, and who die at an earlier period comparatively than he does But in the meantime the fund is precisely the same, as far as he is concerned, as would be an investment in a mortgage company, for instance. Instead of investing his own money he puts it in a mortgage company, and the mortgage company put it out and collect the interest, and they are taxable and are taxed on the income derived from these investments. Now, life insurance companies come into competition with loan companies. They invest their money just in the same way, and they receive the interest by way of the dividends on stocks upon which they lend, interest upon mortgages in which their money is invested, and there is no difference at all in the method of investment and the mode of deriving income, between a life insurance company and a loan company, and there is no reason why the interest derived from their investment should not be taxable in precisely the same way and to the same extent. We have nothing to do with what becomes of that interest after it has been gathered in by the company, how they are going to distribute it, whether they are going to give it to shareholders or to policy holders or whether they are going into some speculation where it is all swept away. It is the income, not what is done with the income afterwards. Mr. MacDonald gave us some information on the subject of level premiums, natural premiums, net premiums, and so on, and he said that he did not think that the courts understood that interest collected or earned by life insurance companies was a liability and not an asset. Well, if the courts failed to understand that, it was not because it was not urged upon them frequently enough. We heard it in The Confederation Life case from the time it was first argued until its final hearing in the Court of Appeal. We heard it in the Canada Life cases from the time they were before the Court of Revision until they came year after year before the County Judge or the Board of County Judges and the Court of Appeal. That has been threshed out, I may say, almost *ad nauseam* by the insurance companies—and endeavoured on their part to show that the interest they received was not income in the same sense as it would be if received by somebody else, but it was something that should be sacred from assessment for the reason that it had to go to make up profits that had been stipulated for to these policy holders, or to make up the amount which according to their calculations they had to pay eventually to these policy holders. But the Court of Appeal took what seemed to me was a perfectly rational view of the matter, that what they were dealing with was interest upon the mortgages and upon other investments which, according to the law, was liable to assessment, and it was just as much liable to assessment because it belonged to a life insurance company as it would be if it belonged to anybody else; it was not sacred from the assessor simply because the money was invested by this company and for the purpose of distribution eventually amongst the policy holders according to the calculations they had made. One would also think from some of Mr. MacDonald's observations that these life insurance companies were humanitarian institutions or benevolent institutions, that they were doing what was for the general benefit of the public; and I suppose, then, that the gentlemen who establish or promote the formation of life

insurance companies' boards and the gentlemen who compose the boards of directors should be looked upon as mission boards, and that the insurance canvassers and agents who pounce upon everybody they can find that they think they can induce to take a policy, should be looked upon as missionaries sent out for the enlightenment of the public and the improvement of their condition, to persuade them as to that which it was wise and sensible they should do in the interest of their families. But I do not think they are usually looked upon in that light, they are looked upon as business concerns; and I think if you look over the personnel of the various life insurance companies of this country you will find that they are men who have bought up the stock of these companies for the purpose of making some money out of it, and they are carrying on that business to make a profit out of it, and the officers are looking to earn their salaries, and the agents are looking to earn their commissions, and it is one of the most aggressive businesses I think to day. We have heard about the aggressive methods of the departmental stores—

Mr. JUSTICE MACMAHON: The widows and orphans and the executors and administrators of a man's estate sometimes look upon life insurance with a good deal of favour.

Mr. MACKELCAN: They do, but a man who is canvassed by a life insurance agent about every week or two weeks is sometimes inclined to use language which is not altogether complimentary.

Mr. JUSTICE MACMAHON: We need not consider whether they are canvassed or whether they went to the company and solicited from the company a policy.

Mr. MACKELCAN: I think we can dispose of the view of the question that these gentlemen should receive consideration, such consideration as would entitle them to be exempted from the ordinary liability to taxation on account of their benevolent or humanitarian institutions. They are business concerns, and the funds they invest are the property of the people who entrust it to them for the purpose of investing it for the advantage of the policy holders, and the shareholders who put in their money, do it in order to make money for themselves. That being the case, and there being, it seems to me, no reason why they should be put on any different plan in regard to liability to taxation from other companies or individuals, the question comes up, how ought they to be taxed? That is one that undoubtedly involves a great deal of practical difficulty. Formally all the income of a life insurance company was taxed at the head office Now that method of taxation has been done away with by the Revenue Act, which limits the rate of taxation at the head office to the income upon such securities as are purely local to the municipality, and also takes away the right to assess premiums for municipal purposes. I confess that there is a great deal of difficulty in arriving at a fair basis for taxation applicable to the municipalities in general throughout the Province where these companies do business. One method of localizing the assessment of these companies is to assess them in each municipality for the interest they derive from local securities in that municipality. That would be in effect distributing over the various municipalities of the Province the taxation that hitherto has been payable simply at the head office of the company, where it was a company whose headquarters were in the Province. That is the method that has been suggested, and the method that we think is perhaps open under the statute law as it now stands, that income not being exempted from taxation, but the right of the municipality in which the head office is situated being limited to the taxation of revenue derived from securities in that municipality, only leaving the other income assessable in the localities where it is derived. That it one view of the Statute that has been contended for here before you, and it may be the correct view, but we have asked that the statute be made explicit and clearer on that point. Either let that be the basis of taxation, or I would suggest that possibly taxation by way of license might be substituted for that. It would not be fair, it seems to me, to charge a uniform license, that is, charge the same license fee to a company that perhaps takes three or four hundred thousand of policies in a municipality, as would be charged to a company that perhaps only takes out ten thousand. I would suggest that the agents of life insurance companies in each municipality should make a return of the amount of life insurance the agent or agency has taken during the past year, just as the ordinary citizen gives a return of the income he has made during the past year, and that upon the aggregate of the insurance so issued in that municipality a license fee or tax, say one tenth of one per cent., or some amount that might be upon consideration regarded as a fair amount of taxation,

should be charged. It seems to me in that way in each local municipality there will be a tax paid for the privileges of the municipality enjoyed by the company through its agent, who was prosecuting the business for the company there Everybody else who transacts business in a municipality and earns money, pays an income tax.

The CHAIRMAN: How would you apportion it so as to be just?

Mr. MACKELCAN: I have not made a calculation of figures at all. I suggested one-tenth of one per cent. upon the aggregate of insurance taken there.

The CHAIRMAN: That is on the premiums?

Mr. MACKELCAN: No, on the———.

The CHAIRMAN: That is the gauge of the business done, is it not?

Mr. MACKELCAN: I put it on the amount of the policies. It takes a smaller fraction, that is all, if you take the face of the policy.

Mr. MCCABE: That would be a very burdensome tax.

Mr. MACKELCAN: It just depends upon the size of the fraction.

Mr. MCCABE: The fraction is only illustrative?

Mr. MACKELCAN: Yes.

The CHAIRMAN: If an old man like you or me takes a policy out, it is a different policy from what a young man takes out?

Mr. MACKELCAN: Yes, I admit that. You don't pay as much in the end perhaps as if you took it out when you were young, but you pay a great deal more each year. Perhaps it would be better to grade it upon the premiums.

Mr, JUSTICE MACMAHON: That would be the only way to do. Take the case of the first year. The agent obtaining the risk gets 20 or 25 per cent out of that premium, does he not?

Mr. MACKELCAN: It depends on the reputation of the company. If it is a company that people are anxious to insure in, he gets a less percentage.

Mr. JUSTICE MACMAHON: If you take a man who travels through several municipalities, how are you going to apportion it? A man lives in Hamilton, he goes to Dundas and Waterdown, Saltfleet and those places, and gathers in all those policies, how are you going to divide them up amongst the municipalities?

Mr. MACKELCAN: Where they have an office or agency, and both means are employed—

Mr. JUSTICE MACMAHON: If a man live in Hamilton and travel as far east as Beamsville you would put it all in the Hamilton office?

Mr. MACKELCAN: Perhaps that might be fair. I am only making this as a suggestion, and I will correct my first suggestion to say that probably the premium would be the best measure.

Mr. JUSTICE MACMAHON: It would be the only way on which taxation could be had.

Mr MACKELCAN: Not the amount of the policy, but the aggregate premiums. Of course there is one weakness about that suggestion, and that is, it would apply only to new business, because the premiums would afterwards be collected altogether at the head office. There are some companies where the premiums are collected by the local agent; there are others where they are all sent to the head office. There is no doubt a difficulty in localizing and distributing the income that should be taxed on a life insurance policy. If it were all taxed at the head office of course you simplify matters very much, but outside municipalities think that is perhaps giving too great an advantage to Toronto, which contains the headquarters of nearly all the life insurance companies that are provincial companies or whose headquarters are in the Province of Ontario. My learned friend, Mr. Fullerton, and myself may not entirely agree. My object is to get a fair share for the outside municipalities. No doubt Mr. Fullerton will be glad if Toronto could tax it all at the head office, because that would be almost all. There are perhaps four or five life insurance companies whose headquarters are not in Toronto, but all the large life insurance companies have their head office here, and I would like to see some method adopted by which the income would be distributed through the municipalities from which it is derived. If it is an income from investment, perhaps it is the easiest way to solve the difficulty that they should be liable to assessment upon their local investment in each municipality where their funds are distributed and from which their interest on those investments is derived. That was our original idea, and I don't know but probably it would be the fairest in the end. When

that was suggested with regard to loan companies Mr. Blake, representing them, thought it was not an unreasonable proposition that income should be distributed in that way; he thought it would be to the benefit of the companies, and as the rate of taxation in outlying municipalities would be less than in Toronto it would be rather to their benefit that they should be assessed in each municipality rather than that they should be assessed on their entire income in Toronto at the head office. With reference to fire insurance companies I think it is very easy to ascertain their local profits. I don't know any class of business with regard to which it is easier to ascertain the net profits of any particular branch than fire insurance business. One side of the account is premiums received, the other side of the account is losses paid and any office expenses or salary of agent that may be deducted from it. The agent is almost invariably paid by commission, and in most cases pays his own office expenses, but these items are very easily got at, and any fire insurance agent in any city or town can give you a return in a very few minutes of what the net profits to the company have been in that municipality during the year past. And I think it is very proper that these companies should pay an income tax upon their profits, because they do nothing to earn their profits; it is the municipality that earns the profits for them. A fire insurance company issues its policy, and it does not do the first thing to take care of the property on which its policy is issued; it leaves it to the municipality to provide all the machinery for the protection of that property which it has insured. I was quite struck in reading this morning a report of the Chairman of the Board of Education in Hamilton on the subject of insurance. The fire insurance companies have threatened to raise their rate of premium 36 per cent. He said they had gone through the figures and, they had in a number of years past, I don't remember the number of years, paid $10,000 in fire insurance premiums, and that what they had received in the way of payment for losses was less than one-half of one per cent. upon that—only about $50 was all they had received in return for premiums of $10,000 which they paid out, and all this large profit had been made by the fire insurance companies

The CHAIRMAN: You must take into account that he had not had a fire; that was what he got for his premiums.

Mr. MACKELCAN: But it is the municipality that takes care of the property and engages the very highly paid body of men who attack those fires the moment they break out. The municipality goes to the trouble of protecting the fire insurance companies from loss. Generally speaking, a fire is not a serious detriment to a property owner, for he generally gets something new in substitution for the old and has something better that he had before.

Mr. JUSTICE MACMAHON: You have a complaint to make that a countryman of mine did in regard to life insurance. He said after taking out a policy, when it came to the end of the year, that he was always in ill luck, he would get nothing on his policy as he did not die during the year. So you complain that you did not have a fire during the year.

Mr. MACKELCAN: Well, but the fire insurance company had been making a profit as a result of our care and expenditure in protecting for them the property for which they practically assumed liability in respect of loss by fire; and I think these gentlemen cannot come forward here and urge any humanitarian or benevolent grounds.

The CHAIRMAN: You would make out your community to be a community of fools, wouldn't you for paying any premiums at all?

Mr MACKELCAN: Well, almost, really; but there is this, there is no doubt that some hundreds of thousands of dollars—I would not say whether it is more than two or three hundred thousand dollars—goes out of our city every year by way of profits to fire insurance companies, the excess of premiums paid over loss incurred by the company. That is one of the reasons why, I think, all these local agencies of the fire insurance companies ought to pay their income tax They did always pay it until this Revenue Bill. We got our annual assessment tax upon their profits every year until the Revenue Bill of 1899 was passed, we never had any difficulty about it. It was pretty well known locally what the profits of each company had been during the year, and they made a return to the assessor and were taxed and they paid it like men. But now since the Revenue Bill they say they are not liable to any tax upon their income because that income is derived from premiums, and premiums are not taxable.

Mr McCabe: With your permission I would like to ask Mr. MacKelcan how he justifies the taxation of the debt in the case of a life insurance company. Mr. MacDonald made it very clear that a large part of the premium is a debt, and it must under the law be steadily improved at a certain rate of interest. Why should that be taxed?

Mr. MacKelcan: As the chairman put it not very long ago, if we look at the reserve fund of a bank which is property belonging to the banks undoubtedly, that is all put down as a debt to the shareholders, it is a liability. So this money that insurance companies owe, which has eventually to be distributed either in profits or to be added to the premiums or to be devoted towards making up any deficiency in premiums, if you have not collected enough, that is all down according to your system of bookkeeping as a liability or a debt to somebody; it has been earned and it has to be distributed and it is made a debt to those who are entitled to its distribution, that is all, whether you are making the profit for your policy holders to be paid to them in cash or to go to supplement shortage in their premiums—because profits are sometimes distributed by way of reduction of premiums, nevertheless they are profits. Now, although they are not actually paid back into the pocket of the insured, yet they go to his credit and reduce his premium. That is all income earned, nevertheless. You are only dealing with the way that income is to be dealt with or applied after it is earned. That we have nothing to do with.

Mr. Justice MacMahon: Outside of life insurance at all, suppose a man says to you, "I have $500 and I want to make provision for my family, I will give you this and you keep it until I am 50," and assuming that he has given it you agree to pay his executors $1,200 or $15,000, what is the position of the holder of that money in regard to that $500;

Mr. MacKelcan: He is assessable on the income he makes from it.

Mr. Justice MacMahon: No, he is owing that, and in addition he owes whatever the accretions are from it, to the extent of the $1,500, to the estate of the person from whom he got the money.

Mr. MacKelcan. Well, we will suppose that the investor who has $500 puts it along with other moneys of his own.

Mr. Justice MacMahon: No, I am not assuming anything, I am assuming the simple case of a man having gone to you with $500, taken an agreement from you stating that he had left it with you as trustee and that you had agreed to the terms that I have mentioned.

Mr. MacKelcan: Well, I am dealing with an entirely different case.

Mr. Justice MacMahon: No, it is an exactly parallel case, there is no difference in it.

Mr. MacKelcan: I am dealing here with the income that comes from the investment of that $500. All we are asking you is that life insurance companies who invest moneys have a great many thousands of people, who, place them all in their hands for investment——

Mr. Justice MacMahon: You can put them all in one fund, it does not make any difference in principle.

Mr. MacKelcan: All that we are asking to assess is the income made by the trustee, if you may call a life insurance company such, place them in the same position as the man whom you spoke of as an illustration.

Mr. Justice MacMahon: Then in order to do that he must invest it, either lend it out to John Brown, who agrees to pay him 7 per cent., or he may put it into any business that he likes and may lose it, but he is obliged to pay under the contract to the executors the $1,500 at the end of the time.

Mr. MacKelcan: If he does not invest it and does not earn any income upon it, then there is no income to tax; he simply loses the difference if he does not turn over this money and earn the interest in the meantime.

Mr. Justice MacMahon: He must do something with it in order to make the $1,500.

Mr. MacKelcan: For instance, if a life insurance company receiving this money just put it into their strong box or deposited it in the bank without interest there would be no income there to tax.

Mr. Butler: They couldn't do that under the law.

Mr. MacKelcan: No, but supposing that were the case in the case His Lordship suggests of the man?

Mr. Justice MacMahon: No, I suggest the case where you as a trustee of that fund employ it in any business you choose, and the whole of it is lost, and although you expected to make 7 per cent on it the whole of it is gone, you are liable for it. You say that there are no accretions, you say there is no revenue derived from it, and therefore there is nothing to tax.

Mr. MacKelcan: There is nothing to tax.

Mr. Justice MacMahon: Well then, take a case that you have put it into your business, whatever it may be, and you get six or seven per cent. on it, what are you going to tax then?

Mr. MacKelcan: If he put it into his business, then the personal property in which it was invested would be liable to taxation, not the income from it. Whatever form that money took afterwards, whether invested in personal property that was liable to taxation, or in real estate that was liable to taxation, or invested in a mortgage, the interest of which was liable to taxation, whatever came out of the investment of that money would be liable to taxation if it were real or personal property or as income. Of course if the money were buried in the ground, as was done with a certain talent that we read about, and nothing realized from it, then there would be no income to tax, but there would still be the liability on the man who received the money to pay it in the end and raise the money from some other source if he had not utilized this fund in order to earn it.

Mr. Justice MacMahon: If a man pays twenty dollars a year to a life insurance company as a premium, what is to be taxed—the interest that the company gets on the twenty dollars, or the twenty dollars?

Mr MacKelcan: No, the interest that the company derived from the fund. That fund all comes into the hands of the company.

Mr. Justice MacMahon: I am speaking about the twenty dollars; how they are liable to be taxed, if they got six per cent.? On $1.20?

Mr. MacKelcan: Yes, that is my contention The result is not at all different from what it would be if each one of those individuals had invested at interest the money which they, in the aggregate, entrust to the company to invest for them The only difference is that in one case the income would be assessed in small amounts in the hands of all those various parties, in the other case it is assessed in the hands of the company to whom it is entrusted for investment.

Mr Justice MacMahon: Notwithstanding that they had agreed at the end of twenty years to pay him a lump sum for the amount he had paid in?

Mr. MacKelcan: It is not at all different from what it would be if he undertook the investment himself, in which case he would have to pay every year a tax upon the income he derived, or the interest he derived. If he entrusts his money to somebody else to do for him that which he may do for himself, then the income derived from the investment of that money is taxable, just as it would be if he invested it himself.

Mr Butler: Do you think there is no difference in the fact that the law, in order to protect the investing community, requires that an insurance company shall invest their money in a certain way, that is, the law steps in and declares that they shall collect so much premium and invest it in such a way that they shall guarantee to pay?

Mr. MacKelcan: That makes no difference. The law provides that to prevent the public being deceived by the insurance company issuing a cheap policy on a false basis, that they must do business on a sound basis; that is all that the law means, and as it will require premiums of a certain amount to ensure a payment at death of the sum stipulated for, they must receive in premiums an amount sufficient to carry out that representation.

Mr. Butler: Premiums and interest; because premiums alone could not raise the sum.

Mr. MacKelcan: You see, if they do not get any interest from the investment of these moneys, then the insured will have to pay a larger premium. The insured is getting the benefit of that profit, and every year he is getting the benefit of that interest, which is going to make up what he is to receive; it is accumulating as if he had invested it himself, and the only object of the law is to protect people from being deceived by taking cheap policies, the result of which would be disaster at the end of the time if they were

based on an insufficient annual payment of the expectation to be realized as held out by the company.

Mr. McCabe: Both yourself and Justice MacMahon and Mr. Bristol have seized the exact point, and Mr. MacKelcan must surely see it himself. He is ignoring the point of the law which compels the company to lay by a large part of the premium, and to improve it at 4½ per cent. interest. That is a debt. Now, if they have made 6 per cent. instead of 4½, in the case that Justice MacMahon mentioned of the $20 premium, if that whole premium were invested—of course they never have the whole premium to invest, because of the expense of getting it and paying the rate and other expenses—but $1.20 will illustrate the whole thing fully. If the whole premium were invested, and the company made 6 per cent. on it and the $20 represented the reserve, the part that the law compels them to lay by to improve at 4½ per cent, then the law makes not only the $20 the amount of reserve, but 4½ per cent. interest, both of them a debt, and in order to meet the contract they must make that interest and lay it by to pay the policy when it matures; and if anything be assessable at all, then it should only be the surplus, the difference between interest as earned and what the Government imposes on the contract as being the essential part of it. Mr. MacKelcan must surely see that. He has used a lot of words, and I tried to get him to answer a question on that point——

Mr. MacKelcan: The interest that a bank earns becomes a debt to its shareholders.

Mr. McCabe: You talk about reserve of banks and all outside of the question. Surely a simple proposition like that proposed to you by His Lordship and by Mr. Justice MacMahon can be readily apprehended, and you should answer the question yes or no. Everyone else in the room sees, I am sure, that your position is untenable.

Mr. MacKelcan: If they see it, they perhaps see it as I do. If they can't see it as I do, I can't change their eyesight.

Mr. Hutton: Mr. Chairman, I have not very much to add, but when Mr. MacDonald was speaking I took it from the tenor of his remarks that the tax on the life insurance companies, as at present applied by the Revenue Act and the municipalities as well, in so far as they get it, was onerous, and that the amount should be struck off entirely as far as the municipalities were concerned, and reduced one-half as far as the Revenue Act affects it. I asked him a question as regards New York. I did that because I had been told by the Secretary of The Canada Life that the tax in New York was 2 per cent. on the premiums, and I only wanted to bring out the fact that the tax there appeared to be much more onerous, and yet they were doing business. Mr. MacDonald gave you some figures from the blue book as regards the premiums, etc.

The Chairman: Do I understand that to be a tax on the first premium, or on each annual premium?

Mr. Hutton: On each annual premium.

The Chairman: The gross amount received by the company?

Mr. Hutton: Yes, two per cent. on the amount received by the company in the State of New York. I was talking to Mr. Hills of The Canada Life the other day and he told me that; I was not sure whether it was the fact or not. Mr. MacDonald gave you a list of the old companies showing that the amount paid out was more than the amount paid in any of those companies, that is, that the amount paid out in claims was more than the premiums. I fancy that was the effect, wasn't it, Mr. MacDonald:

Mr. MacDonald: Yes.

Mr. Hutton: He read also from the blue book the amount of premiums received and the amount divided among the shareholders in dividends. I find that the premiums last year were $7,805,174 that is of the Canadian companies; the amount of policies becoming claims was $2,755,769—quite a good margin. I have not subtracted one from the other.

Mr. Justice MacMahon: $5,100,000.

Mr. Hutton: Your Lordship asked Mr. MacDonald as to what the sources of profit were, how they made the money that they paid to their shareholders. I fancy that that could largely be shown from the lapses. I find that the new business last year was $42,138,128. The amount of lapses was $13,573,594, for which apparently they paid nothing, but they did get rid of that liability of $2,562,697, for which they paid something, that was the surrender policies.

The Chairman: That is in addition to the thirteen millions?

Mr. HUTTON: In addition to the $13,573,594. In the case of the Canada Life, which is the first on the list, I find just what they did get rid of—a liability of $426,186 for a payment of $89,600—quite a good business transaction.

Mr. JUSTICE MACMAHON: What are you reading from?

Mr HUTTON: The Blue Book 1899

Mr. SUTHERLAND: Was that insurance lapsed, or cash liability?

Mr. HUTTON: That is what they paid for the surrender of the policies.

Mr SUTHERLAND: Was it an insurance or cash?

Mr HUTTON: That was the cash

Mr. SUTHERLAND: They paid that amount in cash; what did they pay it for?

Mr. HUTTON: For $426,186 of insurance.

Mr. SUTHERLAND: The difference was not the net profit.

Mr. HUTTON: No, but they would have had to pay it if the people had kept up their policies

Mr. SUTHERLAND: You have no way of determining whether there was profit in that or not.

Mr. MACDONALD: I think it would be as well to let the gentleman go on. The figures are entirely misleading, as I shall show you.

Mr. HUTTON: Mr MacDonald also said that the amount distributed to the shareholders of course was taxable, and he read a comparison between the loan companies and his companies to the advantage of his companies showing that their tax should be reduced because they only paid $88,000 in round numbers of dividends. As your Lordship pointed out, there are shareholders, and there is also another class of participating policy holders. They also paid profits to them. The amount paid to the policy holders was $430 079 in addition to the $88,000 that they paid to the stockholders. The question has been asked by Mr. McCabe, "Why tax debt?" claiming that the amount owed a policy holder, and for which he was paying his premium, was a debt.

Mr. MCCABE: No, a large part of the premium. That is all set out in the blue book.

Mr. HUTTON: Why tax a debt—and he instanced the fact of a storekeeper. Now the storekeeper, if he does not own the goods, is only taxed on what he owns, but the man on whose books that is is taxed Now if the company is not the owners of that, the policy holders are, and are taxed on it as personal property. But I fancy the more equitable working out of it is that the insurance company are trustees for these participating policy holders and should be taxed perhaps not on the money, as Judge MacMahon has pointed out, but only on the income earned

The CHAIRMAN: As the law stands now a policy holder ought to regard his policy as a part of his personal property and be taxed on it.

Mr. HUTTON: Either that, or the company should pay it.

The CHAIRMAN: That would relieve the company; if their policy holders paid, as they ought to do under the present law, the company ought to be relieved to the same extent.

Mr. HUTTON: That is the logical working out of the present law, I contend, that if it is a debt owed by the company to the policy holders, it is assessable against the policy holder, as an asset under the present law.

Mr. BUTLER: It would be a rather complicated thing.

Mr. HUTTON: It would be rather complicated to work out, and the companies would have to give a return to enable us to work it out, but the other is a much more lenient way of working it out, to assess them only on the income that they earn, and in that respect I don't think there ought to be any difference between a company and an individual; if I have $50,000 invested in stocks I have to pay on the income it earns, so should a company. If, as your Lordship pointed out, the policy holders are participants in that, it just lessens their dividends to that extent. I fancy that in assessing the income Hamilton would be hit if it was assessed at the head office, but we should look at this from the broad basis of the Province and the easiest way of ascertaining it. If each company was assessed in each municipality it would mean a multiplicity of bills and all that, and while perhaps Toronto would get more benefit from taxation than other municipalities, I think the company should be assessed the same as the individual, where he resides, and under the law the companies' head offices are their domicile.

The CHAIRMAN: And should there be assessed for the whole of the business?

Mr. HUTTON: And should there be assessed for the full amount of their income from investments. I do not think that we should seek to assess the net income, because the matter of premiums enters into that, and the Government have taken the revenue from the premiums, but they have not taken any part of the taxes from the investment. I also would draw a distinction between a life company and a fire company. I think that instead of assessing the fire company at its head office it should be assessed in the district. They divide up all their territory into districts and each agent has a district to look after, and he could tell you within half an hour their profit or loss of that district within the last year.

The CHAIRMAN: A man goes down from that district to the head office and does business?

Mr. HUTTON: The district is credited with it. The agent has the exclusive right in that district, and anything that is put through at the head office for that district is credited to that district.

The CHAIRMAN: That depends on the arrangement between them.

Mr. HUTTON: I am speaking generally. Of course there may be individual differences, and the reason I would distinguish is because, as Mr. MacKelcan pointed out, the municipalities very largely make the profit; they have to keep up an expensive fire brigade and a very high water pressure to protect the companies from loss, and I think the companies should be fairly asked to contribute to the extent of their profits in that district.

Mr. MACDONALD: May I point out to your Lordship some of these statements? Mr. Hutton has represented certain statements here which, if left unanswered, would be entirely misleading. For example, he has corroborated some of the figures I gave—I don't think I gave the income—but he has only quoted to you one of the sources of payments going to policy holders, evidently intending that they shall convey the impression that that is the sole payment made to policy holders. Now I will read from what I quoted before, from page 21, where I gave the total instead of individual parts: "Death claims with bonus addition, $4,604,416.59; matured endowments, $1,382,916.18; paid to annuitants, $104,727.69; paid for surrendered policies, $720,384.22; dividends to policy holders, $868,524.17; making a total that I gave to you before of $7,680,958.85.

Mr. HUTTON: But the figures were the Canadian companies; what you were reading was the whole of the companies. If you read a like statement for the whole of the companies—

Mr. MACDONALD: I would say in answer to that, read the other payments under the various heads which I have read out from here and you will find a corresponding correction of Mr. Hutton's figures. He has only quoted one. He has left out of his reading the payments on account of matured endowments, the payments to annuitants, payments for surrendered policies, and also payments in the shape of profits to the policy holders, or surplus. Put these together and they will make really no material change likely to damage the statements that I have made in regard to this matter. Then again, Mr. Hutton has ventured to make statements in regard to matters of lapsed policies and a large gain that arises from that, and has very earnestly called the attention of your Board to the surrender in the case of The Canada Life of $426,186 insurance that has been terminated by way of surrender and is referred to on another page. The consideration that has been paid for surrendered policies was $90,237.80. But he either was not aware or has not stated to you the fact that in many cases considerable of the consideration that is represented by the surrender of $426,186 of insurance may have been met by commuted or paid-up policies, that is to say, a policy, where it is issued for $1000 or for more, a policy is surrendered and it may become a surrendered policy for $100 or $200, as the case may be, thus leaving these out of account altogether. It is impossible to find out from this what has been given, but there is no doubt the Canada Life gave what is a fair consideration for the relief of what passed off its books. Then with regard to the gain from the lapsed policies, I can assure this Board that that gain is a comparatively small one. If you went back twenty or thirty years ago, there was a time when gains from lapsed policies were very large. The extension, however, of the privileges has come in and made a vast change in these matters. In addition to the reasons I have given as to paid-up policies, I have no doubt that the plan of more recent years of extended insurance may have come in under this same consideration, which is another element in the matter, so

that now the surrenders that are given for policies that have lapsed, either by way of cash, by way of paid-up policies, or by extended insurance, the gain in that way is comparatively little, and I have been surprised to find in my own company that it bulks a comparatively small sum in view of these other privileges. And yet you are led to believe, from the statements made by those who go upon what they suppose to be the facts, rather than on a knowledge of the facts themselves, that there are very large gains. I was going to reply to the suggestion of His Lordship Judge MacMahon about this matter as to the possibility of large gains from this source, and was going to take an opportunity of saying that the gains were comparatively small. Then with regard to this interest question, Mr. Bradshaw, the Actuary and Secretary of The Imperial Life, had prepared an illustration of the interest on the very lines of the question suggested by The Hon. Justice MacMahon.(*a*) It is the promise to pay at the end of ten years with the annual payment, with the element of mortality eliminated from it altogether, but with the annual payment of so much per year and worked up to the end of the period, and I was going to pass this to Judge MacMahon because it was practically in the line of the question that he asked Mr. MacKelcan.

The CHAIRMAN: An endowment policy?

Mr. MACDONALD: It is just worked out on the basis of interest alone and does not take into account the element of mortality at all.

The CHAIRMAN: Annuity?

Mr. MACDONALD: Well, it is not an annuity either. Annuity is the premium that is paid each year, but it is an undertaking at the end of ten years on a certain payment to pay over $10,000 absolutely, not contingent upon living through, or death intermediate, or anything of that kind, it is a clear promise to pay at the end of ten years.

Mr. JUSTICE MACMAHON: And it is assumed that the man lives out the full term?

Mr. MACDONALD: The conditions of life or death do not enter into it at all.

I might correct one thing more. I was asked a question about the taxes in New York State. At the moment I did not care about making a statement just from memory. On its domestic companies the State of New York imposes no tax.

Mr. HUTTON: That is all I wanted to find out.

Mr. MACDONALD: As they believe very highly in protection, they impose a tax of 2 per cent. upon all foreign companies coming into the State to do business.

The CHAIRMAN: You say they pay no tax?

Mr. MACDONALD: No tax to the domestic companies.

The CHAIRMAN: Is that absolute?

Mr. MACDONALD: That is absolute.

The CHAIRMAN: They pay on their real estate, I suppose; they pay no other tax than upon the real estate? I rather understood that in New York the personal estate tax was still enforced.

Mr. MACDONALD: I have here a paper by President Battersby of the Travellers' Insurance Company, read before the National Convention, and I may say that for integrity and intelligence I do not know any man connected with life insurance business of the United States who stands higher than Mr. Battersby. I will put in this paper that you may have it. He goes on to show the folly of the state tax, and it is a paper that I think may be of some benefit to the members of this Commission, because it deals with this very question.(*b*)

JAMES C. FORMAN: Mr. Chairman and Gentlemen, if your honourable Board will give me a few minutes by way of explanation, I would say that Mr. McCabe, the manager of The North American Life Company, stated to the Board that a double taxation existed as against the company and the trust corporation and the shareholders. That is, the dividend was assessed as against the shareholder, and also the income was assessed directly against the company. Now, if the whole of the net income had been assessed against the company, then the statement made by Mr. McCabe would be possibly correct, but he stated unqualifiedly that there was a double assessment existing from the alleged fact; but we have the records here of the companies' income and assessment, and there is not one of them that I know of that pays on its full net income in Toronto, simply because the business of the company is not only the small portion of it here, but the balance

(*a*) See No. 32 in Appendix A.

(*b*) This address is to be found in the "Traveler's Record," published at Hartford, Oct. 1899, vol. 36, No. 7. See also No. 33 in Appendix A.

of it being outside is assessable under our present Revenue Act. Therefore so much percentage of that income as is derived in the municipality, that portion of it would be subject to double assessment, and Mr. McCabe to that percentage would be correct; but there was no qualification made in his statement, so I took objection to it, and just wish to lay this explanation before your Board.

Mr. THOMAS: Two or three words. Mr. Hutton read some figures to show that by a payment of say $50,000 or $80,000 some company got rid of $300,000 liability. He evidently concluded the liability as the full amount of the policy, and then by settling for these small sums they got rid of that liability. That is very misleading. Their liability only exists for the proportional part that that policy has run. For instance, a twenty-year endowment, or a whole life, if the expectatien of life is twenty years, if he paid five years, he has only paid one-quarter, and there is only one-quarter of liability attached to it, and when they get rid of it by paying $250, or as the case may be, they have got rid of the whole of their liability. Then the statement was made as to how much money was made up from lapses. I was astonished when I first went into the office to speak of my present engagement with The London Life, the manager gave me a little lecture of what was expected of an agent, and it was to this affect, first, "We don't expect you to go out and lie to the people"—

The CHAIRMAN: That is what surprised you? (Laughter.)

Mr. THOMAS: Yes. I thought the life insurance agents were a lot of sharks, and I felt very much like kicking them out of my office when they came to canvass me, because I did not understand them. I thought they were going to get my money and give me nothing in return. Our manager said to me, "We don't want you to insure any man under any misrepresentation, for it will surely come back to you, and before his second or third premium comes he will find out that you have lied to him and he will drop it."

The CHAIRMAN: It is a bad thing to be found out.

Mr. THOMAS: No, a bad thing for a policy to lapse. If this policy lapses before it is four years old it is an actual loss to the company. You cannot quite understand that, being a layman, but it is an actual fact that if a policy lapses before it is four years old it is an actual loss, and for this reason: That when a man lapses, take a good strong young man, a healthy man, they will lapse because they can go and get their insurance any place, but there is a large percentage of men who, finding it was not as good a thing as they thought, have got into bad health in the meantime, and an old man or a man in bad health does not lapse, and therefore we are carrying a man who is going to be a loss to us, never to make any gain out of him, but if a young man finds anything wrong he lets the thing drop and he can get insured any place else. So there is nothing in lapses as a matter of fact. There was at one time, but these privileges are such that there is nothing in lapses at the present time; and when you speak of getting rid of a liability this same thing applies, you pay on the same lines, that lapses are of no value, you pay nearly the whole value of that policy because it has only run three years and that is your whole liability. You are not liable for the whole thousand dollars for twenty years, because if he stayed with you twenty years he would have been paying fifteen or sixteen times the premium to help you pay your liability.

Mr. J. S. FULLERTON, Esq., Q. C. (representing the City of Toronto): I would like to add a few words to what has been so well said by Mr. MacKelcan and Mr. Hutton in reply to what has been so admirably said by the gentlemen on the other side; but I think the remarks of the last speaker have thrown some light on this discussion. Evidently if what he says is correct—and I don't doubt it—it is a loss to the company if the policy lapses, and it is only a loss because they make money out of him if he stays. There are the premiums that he had already paid for writing out his policy, so that the loss is in losing the future money that man would pay, and therefore they make a profit out of it. Now, bearing in mind Mr. Thomas's definition of a man who is not willing to pay his whole taxes—and I understood by that he meant to put on him his manhood suffrage share of all taxes—that he is not half a man if he did not pay, I suppose the same rule should apply to a company—that a company who won't pay their taxes is not half a company.

Mr. THOMAS: Sure.

Mr. FULLERTON: Therefore I want to demonstrate that these companies ought to pay even more than they do, or else they are not proper companies at all. Now, every hill that we see argues a corresponding hollow. Put it the other way, every hollow argues a

hill; and every liability that you show is existing shows there is a corresponding asset. That liability to one man is an asset to another; and where you find that asset, under the theory of taxation in this Province, that asset should pay taxes—either from one person the taxes should come, or from another. Therefore if that be so, and Mr. MacDonald's figures are correct, if you take the case that he puts in the twelfth year where the reserve sum of $200,307 92 is in their hands, it is in their hands either as their property or it is in their hands as the property of somebody else, that they are handling for that somebody else; and if that somebody else is not paying taxes on that property, and they are not paying taxes on that property, that property is escaping taxation. Now take the case put by Mr. Justice MacMahon—and it struck me at the moment that it fully illustrated the whole position, because while this is complicated by dealing with a great number of policies and a great number of persons, if we reduce it to a single insurance it will be clear—by handing his money to me, either a lump sum or yearly payments to be repaid at the end of a certain time, we have the whole thing in a nutshell. What will apply to one will apply to another. $500 passed over by A to B should pay taxes as personal property either by A or by B. Either one should pay on it. But the law says "No, we will not charge the policy holder, we will charge only the income derived." Then it is surely a matter of contract whether A or B shall pay on the money derived from the investment; and as the contract is made between A and B, A and B being parties to it, and the law says we shall tax the net income in the hands of the person handling it, supposing that is the company and they make their contract, surely we are doing them no harm in taxing the net income in their hands. Now, I think that fairly puts the case; it strikes me so. I followed Mr. MacDonald's figures with great interest. I had the pleasure of going through the same figures set out by the actuary of the company in The Confederation Life vs. Toronto, and I had the pleasure of listening to these facts very ably put by Mr. Blake—they have been put with equal if not more clearness by Mr. MacDonald to-day—but do they not lead to that result? A sum of money existing, a sum of money held by one man for another? One man a liability, the other an asset? It is not taxed as a sum of money, but the income is taxed. There is a contract between these parties, and the law says in the hands of the company that sum of money shall pay on its income. That is all that we are asking. If that is not simple fair play, that they shall pay, then I do not understand the figures. Now it seems to me that deals with the whole question. If I may refer here to just another matter, I think a portion of the misunderstanding that occured between Mr. McCabe and the Department to-day is in reference to the fact. Mr. McCabe got his facts from the Trust Company, and I remember in settling the Trust Company's taxation with Mr. Malone and Mr. Barwick that we required them, or the County Judge required them, at our instance, to give the evidence of those who had moneys deposited with them so that these moneys might be taxed as personal property, and I suppose in settling with these persons whose money in their hands is so taxed, they pay the taxes on them as long as they hold the money. They doubtless charged against any income they paid over to those persons the amount they had to pay for taxes, and probably in making the answer to Mr. McCabe this question has got into their minds or into his, but I don't think that affects the question we are considering here to-day. There is possibly a small element of double taxation comes in. I find that the Revenue Act provides for that. (Reads Sec. 7, Cap. 8, 1899). Now it is just possible that if the companies' whole income was assessed, that that may involve the assessment of a share or dividend or a small portion of the share or dividend of the persons who are to receive dividends in a locality, but as that money is only paying on one-fifteenth or one-twentieth of what it would be if you paid on the principal and not on the income, it does not strike me that there is any large grievance in that. It does not seem to be that that is a matter that needs to be attended to with the very greatest of care, because already the corpus has escaped taxation and only the income is being taxed. I am not forgetting the several reasons given by Mr. MacDonald why it wise that insurance should not be taxed in full. It may be that it is wise, as is done in England, as he pointed out, that a certain amount of a man's income may be set aside each year for insurance, and after making a sum that will inure to the benefit of his family, that that shall not be taxed; and that is surely done here, because where a man goes on paying his policy for twenty, thirty or forty years and eventually dies, $1,000 or $10,000 for which he

is insured, is a sum that has been gradually accumulating to that point just as much as though he was buying a house and paying for it during that time, or making any other provision for his family, and is a sum of money inuring to his benefit which has not paid taxes except so far as it has paid it on the contract between him and the company where the company paid a tax on their income. Now leaving that point, because that has been already so fully illustrated that it seems to be unnecessary to dwell any longer upon it, I want to touch one or two other things. The tax under the Revenue Act is something that we have nothing to do with here, as has been pointed out, except possibly I might suggest this: If a license was imposed on these companies who come here and do business it probably would be a Government license. As they do business over the whole country a municipality could not license them outside of its own borders unless some change was made in the powers making licenses. The municipality only licenses within its borders, therefore it has always seemed to me that the Government tax was in the nature of licensing them or conferring on them a franchise, and was because the Government does confer on them that franchise, and therefore it ought not to affect in any degree the tax they pay or ought to pay to the municipalities That leads me to the next question, where ought they to pay? In the first place their revenue can only be ascertained at the head municipality. In the next place, all expenditure that is incurred in regard to these companies. say for police, for roads, for education, for justice, for fire protection, are almost always where the head office is. I am speaking now of the life insurance companies. It occurred to me that the only police protection they would possibly require in municipalities would be the protection necessary to keep the agents from taking their lives—but that is hardly something that is provided for; but otherwise the agent simply lives there, he simply transmits the money to the head office. In case of death the money is provided from the head office and is only paid out from there, and comes as a benefit to the municipality and as a solace to the relatives of the man, but the whole business—the office, the building, the obtaining of the money, the handling of the money, the protection by the police from burglary, from all losses by fire, and all other sources, is at the head office and there is where the taxes should be paid. Now, I submit to the experience of the gentlemen sitting around this board, this fact: Great cities grow by the aggregation together of insurance and loan companies and manufacturers and merchants and all people of that class. They come here, and here they require their roads and their protection and their care, while they go and transact their business everywhere through the country. The advantages are derived from the country while the cost of looking after these buildings and these people is all centered in the great city. The result is in the great city taxes always go up enormously compared with country places where the business is transacted. Now that is a fact, I think, that is abundantly clear, and yet if you distribute the taxes in the way suggested by Mr. MacKelcan- - -

Mr. JUSTICE MACMAHON: After all, isn't the contract concluded at the head office, because every application for a policy is subject to be revised by the medical director of each company, so that the contract is completed at the head office and the policy is handed over to the agent merely for delivery.

Mr. FULLERTON: Merely for delivery.

Mr. MACKELCAN: Still, the agents are wearing out our streets.

Mr. JUSTICE MACMAHON: Yes, and their boots for the benefit of the shoemaker, and their clothes for the benefit of the tailors.

Mr. FULLERTON: And the agent who lives there spends the salary he receives there, buys for his family there, occupies his house there, pays everything there that any other member of the community does, while the moneys that are going to help that municipality are all being cared for in the municipality where the head office is. The result is that the taxes go up in the city and are always burdensome and heavy where the head offices are, while they are doing business that inures to the benefit of the whole country. The same reasons apply to the manufacturer and merchant and loan and insurance companies—they should be taxed at the place of their head office and not the taxes distributed, as has been suggested, elsewhere. I have heard no good reason given before this Board for the distribution elsewhere. When this question was being discussed before, Mr. MacKelcan was asked to suggest a reason, and I do not remember that he did so. I don't think he has done so to day, and if a reason were given it seems to me that the facts that I have put forward fully answer that reason and show where that dis

tribution should take place. Harking back for a moment to another part of that discussion, it occurred to me that there was more entered into the earning of this income than Mr. MacDonald put forward. I observe that the paid-up capital of the Confederation Life Company is $100,000, according to the Blue Book. That of course goes into that earning The lapses, whatever they are worth, certainly go into that, and certain other things may, although those are only circumstances that show that there are other earnings. Now, it occurs to me that if justice were done, if these companies or the money they represent were paying what they ought to pay, a very much larger tax would be imposed than the one that is now in existence; and no good reason has been given whatever for freeing these companies from paying at their headquarters. At present, while they are freed from paying at the place where their head office is, they are not taxable any place else. The result is that they are so freed in other places from paying. The change in the law has not inured to the benefit of certain companies, and the Assessment Department has been kind enough to give to me a list of figures showing five companies to whom it has worked disadvantageously, not only insurance but other companies, and a large number of them, including fifteen or sixteen companies, to whose advantage it has worked. The loss has been very considerable so far as Toronto is concerned. The loss of the Confederation Life has, notwithstanding that fact, been $166 99, showing that the Company Mr. MacDonald represents has not gained thereby, while the City has lost from the Confederation Life $3841 50. The Company before the Revenue, Act paid the City $4348.50, but in the 1900 assessment they paid only $507 to the city, but the Revenue Tax was $5528.49. That is fair to nobody, unless this tax or license that is paid to the Government makes them pay what ought to have come to the municipality. I will not read this full statement, but will hand it in, showing what our loss has been in regard to these companies. (*a*) Mr. MacDonald argued that the tax as it is to day drives business from places where business exists. For instance, a company in Toronto will not invest in Toronto debentures because it has to pay a tax on its investments in Toronto, but it will buy Hamilton debentures. A company in Hamilton will not invest in Hamilton debentures for the same reason, but will buy Toronto debentures. The place where they can do business easiest is the place where they do business, on account of this law. The law, it seems to me, is one that is eminently fair and proper, and I think that they should bear their fair share of taxation. The only point that commended itself to Mr. MacDonald was that it was easy of application. If you wipe out the tax and let them go, it is easy of application.

The CHAIRMAN: How do you suggest it should be?

Mr. FULLERTON: I am not anxious to suggest a law that would bear more heavily on insurance companies, but it did seem to me that if they were just simply taxed as they were before, on their net income, that they contributed some reasonable sum towards the revenue of the city, and that that perhaps would be sufficient.

The CHAIRMAN: A law expressed in these words would hardly do.

Mr. FULLERTON: Well, the law as it was before the relief was given, before the Revenue Act; put that back, and if the Government see fit to take these and other companies by way of license or tax because of their right to do business in the Province—a tax we should not impose—that does not alter their relations to the municipality, it does not alter their right to bear their municipal taxation, and should not be allowed to affect it; so that if you change the law back to just what it was, that is all that we would ask, representing the municipality of Toronto.

Mr. HUTTON: Do you make any difference between the fire and life companies?

Mr. FULLERTON: It did not occur to me that I would, though I do not like to say at this moment that I am sufficiently posted in the difference between the way they do their business, and all that, to express an opinion that would be worth a great deal to this Board. If life insurance required offices and locations elsewhere than at their headquarters, which fire insurance companies apparently do not, that would be an element to enter into the consideration. It has not so far impressed my mind that that would be so, but I do not like to express any very decided notion about it without time to consider it.

Mr. JUSTICE MACMAHON: I imagine that there are very few life insurance companies that have special offices anywhere except perhaps in Hamilton, London, Ottawa,

(*a*) See No. 28 in Appendix A.

and may be in Kingston; but as a general rule is it not the case that an agent for an insurance company has two or three agencies, fire and life, and perhaps two or three life companies under his control, and carries on a sort of general insurance business in which several companies are represented by him as agent?

Mr. FULLERTON: I think that is so, and even though fire insurance companies be divided into districts, as was intimated by Mr. Hutton, the man in that district is only an agent all the same. He collects for that district, he receives the reports of the agents of that district, he probably directs them to a certain extent, but all the results are transmitted to the head office, and the bargains are all made at the head office.

Mr. JUSTICE MACMAHON: Yes, the insurance is consummated at the head office, because without the approbation of the medical director, whoever he may be, the risk does not pass and is not assented to.

Mr. FULLERTON: Exactly, and for that reason it seems to me that they should go to the head office the same as the others.

Mr. MACKELCAN: No, Mr. Justice MacMahon is speaking of life companies.

Mr. FULLERTON: Would not that be true of fire companies? The agent in the district would only be a supervising agent for the district; the board would be at the head office.

Mr. JUSTICE MACMAHON: I suppose in the majority of instances as far as life insurance is concerned after the first premium is paid the premiums are all transmitted by the insured?

Mr. FULLERTON: That would be so, and therefore it would seem to me that the head office, wherever it is, is where the taxation should be.

The CHAIRMAN: Foreign companies would not be taxable at all on that principle?

Mr. FULLERTON: Except this, that in Edinburgh vs. Toronto, Judge McDougall held that Kingston vs. Canada Life was only intended to be applicable to a company that had its head office here, and therefore he had to hold that that company was taxable here. I have given to the Board that judgment. (*a*) Let me suggest another thing that occurs to me with regard to that.

The CHAIRMAN: That is a difficult principle to apply.

Mr. FULLERTON: It is, but is not there this distinction—we are only making tax laws for Ontario, and therefore when the head office is in Ontario it is possible for us to ascertain whether there is a profit or a loss in Ontario only at the head office? Where the head office is outside and there is an agency in Ontario, all we are concerned in is whether there has been a profit or loss on the business transacted in Ontario. If they have losses in France or Germany or England or the United States it does not seem to me that we ought to concern ourselves about that, and in that event we should take an agency that is established here and ascertain what that agency has done in Ontario and not hold ourselves responsible because they have placed risks in other countries where there are more dangers and less law and protection than there is here. And this brings to my mind another thought that has come up more than once before the Board, and that is that where things apparently do not receive the protection of the police and the administration of justice, that that is really not so, because that protection extends to every branch and line of business. Though the pipes of the gas company under the streets, for instance, may appear not to be protected, nevertheless they do need it because it brings disorder, and you protect everybody.

The CHAIRMAN: What would you do with a company with head office here, doing business in Quebec?

Mr. FULLERTON: I should think that the tax laws of Ontario should not be affected by that. Tax the business they do here.

The CHAIRMAN: Here alone?

Mr. FULLERTON: Well, at the head office in Ontario. What I mean is this, they receive their income here, at the head offices here——

The CHAIRMAN: A Toronto company with an agent in Hamilton, and an exactly similar agent in Winnipeg, you would want to tax the Hamilton business here?

Mr. FULLERTON: Yes.

The CHAIRMAN: Would you tax the Winnipeg business?

(*a*) See p. 281 and No. 19 in Appendix A.

Mr. FULLERTON: Yes.

The CHAIRMAN: So with Montreal and Halifax?

Mr. FULLERTON: Yes.

The CHAIRMAN: Or New York?

Mr. FULLERTON: Yes. Here is where the head office is, here is where the the policies are, here is where the policies are decided upon, here is where the Board is situated, here is where the buildings are, here is where road and other expenses are to be.

The CHAIRMAN: A Quebec company does the same thing exactly; they have an agency here, they tax this agency in Montreal, so it is taxed twice.

Mr. FULLERTON: It may result in double taxation where you get into different provinces or different countries, but I am afraid that is one of the things we cannot avoid, at any rate if such an arrangement as that was made it must be a mutual arrangement.

Mr. JUSTICE MACMAHON: Having a tax imposed in an adjoining Province under the laws there, how would it be proper to impose a tax here on that business transaction?

Mr. FULLERTON: The difficulty seems to me, as you put it, that these laws are fixed by the Provinces. If we had a Dominion law as to taxation it would be justice between ourselves to do as Your Lordship suggests.

Mr. JUSTICE MACMAHON: That is, as applicable to the business transacted within the lines of that Province, then the amount transmitted here to the head office comes here less the tax paid to the Provincial Government, or if the tax is made at the head office here the tax is paid from the head office here to the Provincial Government, and it will be taxing it twice, double taxation on the same business. It is totally different from a case like Hamilton where the agent is there and transmits here, where there is one tax collected and that tax collected where the head office is and where the contract has been entered into.

Mr. FULLERTON: It strikes me that your Lordship is probably right; if we impose a tax on foreign agencies we should not also tax what comes from foreign agencies, and if they tax us I do not know that it should alter that. It struck me the other night in reading the usual comments on religion in one of the papers that Confucius was about right when he said, "We must meet injustice by justice."

Mr. HUTTON: I would like to point out the difference between fire and life companies. Your Lordship just hit it, that only the first premium in regard to the life company is paid to the agent, but with the fire company the whole premium is paid to the agent because it is all paid at once.

Mr. JUSTICE MACMAHON: I suppose that is so.

Mr. MACDONALD: That is in the majority of cases entirely wrong. Not only the first premium but the subsequent premiums continue to be paid through the local agent, in from 80 to 90 per cent. of the cases.

Mr. HUTTON: All that I can say is that in evidence before the County Judge the other day it was sworn by Mr. Coad, the agent in Hamilton, that he did not handle a cent of life premiums.

Mr. MACDONALD: That may be the case with an individual, but it takes more than one swallow to make a summer.

The CHAIRMAN: That may be a special case.

Mr. MACDONALD: It is merely a special case. I venture to say I am quite within the mark—I can refer to the other managers here if I am not within the mark—when I say that at least 80 per cent of our premiums continue to come through local agents. It is just explained to me that in the case of The Canada Life, instead of having an ordinary agency there they have placed a cashier to collect their premiums, and that is a special case.

Mr. JUSTICE MACMAHON: When Mr. Cox was the eastern agent of the Canada Life the receipts were all sent to him and he transmitted in bulk every month.

Mr. MACDONALD: They were sent in from his local agents.

Mr. F. W. KINGSTONE: Reference has been made to the Edinburgh Life, and I have a cablegram from the head office asking me to attend before the Commission. I would like, however, to wait until I get a letter. A copy of the judgment in the Edinburgh Life appeal was handed in by Mr. Fullerton, and I would like to represent their case to the Commission when I have a letter from the head office. The case was decided by Judge McDougall, but I think I can show the Committee that we ought not to be taxed

twice, as the head office is in Edinburgh, and as by the decision of Judge McDougall we would have to pay taxes here on investments as well as taxes in Edinburgh.

Mr SUTHERLAND: In that case the foreign company, which we understand the Edinburgh Life to be, would get scot free from taxation so far as we are concerned, just as the American companies do now. Our legislation unfortunately favours the foreign companies to the disadvantage of our home companies.

Mr. JUSTICE MACMAHON: You want protection all round?

Mr. SUTHERLAND: Well, we ask even-handed justice. We think it is only even-handed justice that the same amount of premiums being paid to foreign countries, the same amount of tax should be paid that is paid by Canadian companies. I would like to point out the fact that the Canada Life dealt very fairly with those policy holders to which Mr. Hutton referred. He pointed out to you that $96,237 70 was paid over; that is $225.90 for each $1,000 of insurance. That seems to have been in cash. The total amount of insurance in force in the Canada Life was seventy-one millions. Its total reserve to its credit was $19,770,339, which is $278.95 for each thousand of its insurance. Now, if the company held $278.95 on each thousand of insurance and paid for that to these policies surrendered $225.90, there was $23.05 of a gain to the company on each $1,000 surrendered, provided that the insurance had all a similar reserve to their credit; but all insurance men, and others who know about insurance, know that the old policies do not surrender—the policies with a large reserve are rarely surrendered, the policies that are surrendered for cash are the policies that are not having large reserves, so that when that is taken into consideration that those that would remain in force would have a much larger average reserve than those that were surrendered, the gain to the company on account of the surrenders must have been very small indeed. I want to emphasize the fact that very little gain indeed is made by the companies from the surrender of policies. No gain whatever is made on policies surrendered at the end of the first or second year. At the end of the third year nearly all policies give large value, which is automatically secured to the policy holder without any action on his part; he cannot lose it, the value for what he has paid over and above what he has got value for in the extended insurance that is given or the cash value that is secured to him that he can have at call. A policy cannot lapse, in the majority of instances now, so that these people who talk about the large gains that are made from the surrender of policies, they are talking about something that insurance men know there is nothing in. We would not be in the business if there was not gain, but we have no large gains on individual cases; the profit is in doing a large business. The London Life, although they have been in business twenty years, have never been able to pay their stockholders the amount of dividends or profits, or whatever you like to call them, that the stock would have earned if it had been invested in mortgages or some other security. The stockholders would have been better off than they have been in transacting life insurance business. They hoped to reap large returns and they have not reaped them, and everyone of the companies is in the same position. The only hope of making large gains in life insurance business is to do a large business and only a small gain from each policy issued.

Mr. MACKELCAN: Mr. Fullerton was asked some questions with regard to the difference between the local business of fire insurance companies and that of the life companies, and he answered them or partially answered them. I would like to make one or two observations on that subject. The local agent practically controls the fire insurance. There is a number of local agents in each large city or town. He gets insurance from his friends, he has probably several first-class companies, and they are all on a par so far as their reliability is concerned. The insured has very little choice, he does not care, it is a matter of indifference to him what company the policy is issued in, but he desires to give the business to his friend. The agent insures him. If he cannot take the whole amount of insurance required in his own company he goes to a friend with whom he exchanges business, and he places the whole insurance required. That is entirely different from the business of life insurance, where the company to be insured in is a matter of very great importance, which has to be carefully considered, and it is far less of a local character than the business of fire insurance. The profits made in a locality by a fire insurance company are easily ascertained by reference to the books of the agent in probably half an hour, and I think there is a very clear distinction between the business done in an agency of a fire insurance company and that of life insurance company, and I think

therefore the fire insurance company should be assessed in each municipality where the risks are taken and where the income and the profits are made.

Mr. MacDonald: There were some similes introduced which seemed to me to be scarcely fair. For instance Mr. MacKelcan, in reference to the question of thrift, made a suppositious case of a man who bought a house, who paid the taxes, and that his payments to a life insurance company were precisely the same. I submit that it is in an entirely different position. In one case he buys a house, and he pays taxes on that house; why? Because he has sidewalks, he has fire protection, he has municipal government and other things that may be of lesser or of greater value; but in the other case he has not got these, and therefore the two cases are not similar.

Mr. Fullerton: In that case, the sooner he dies the sooner he gets his money.

Mr. MacDonald: That is all right in that case; we will have to deal with it in another way. Then Mr. MacKelcan said premiums paid was only capital invested and gave a simile from a loan company. Now I hold again that his simile is not in point, because in one case he is accumulating money by depositing, and in the other case he is paying money for certain risk that he runs in regard to his life. We know that no individual has such a license of life that he can tell how long he may live. We know from statistics that out of a given number so many are certain to die within certain periods, and he pays money to the insurance company on it as he would pay it to a building society to accumulate, but it covered a certain contingency, and as I pointed out, he makes an over-payment so that the company may have in hand sufficient of his money to meet the requirements on the basis of payment that is demanded from year to year by the company. I would like to ask the representatives of the city what is their basis of taxation of loan companies?

Mr. Forman: The net earnings.

Mr. MacDonald: That is not the point. It was stated here that the interest earned by the loan companies is taxed. I think I could venture to say that it is not the interest in the loan companies that is taxed.

Mr. Forman: It is the interest that belongs to them.

Mr. MacDonald: It is not the interest that they have earned, and that is one of the injustices that the life insurance companies suffer from. The Toronto Assessment Department insisted on assessing the gross interest earnings of the life companies, no matter where that interest was earned, but they only assess the loan companies on the dividends paid to the shareholders.

Mr. Fullerton: It is provided for in the Statute, in Clause 8.

Mr. MacDonald: I am speaking now of the municipal taxation.

Mr. Fullerton. This affects both—rules for both

Mr. MacDonald: I know, for example, that while my company was assessed at perhaps $150,000 or $160,000 on the interest earned, one company, which I need not mention, had during the same year perhaps $600,000 of interest earned upon which the tax had as much right to be levied as the tax levied upon my company, and yet it was only levied upon the amount of dividends paid to the shareholders. These are facts.

Mr. Fullerton: What company was that?

Mr. MacDonald: The company I refer to is the Canada Permanent. I need not mention that company more than others, only that was the one that had the largest amount and therefore made the largest contrast. Now, as to the information before the Court, my reason for being so careful to bring before you to-day the information that I sought to bring before you was because the full information that you have had laid before you to-day was not before the Court. I have here, for example, a copy of the case on appeal in which is the appeal set out, and I read it very carefully—Confederation Life vs. Toronto—this is the case before Justice Ferguson in going to the Court of Appeal, and I went carefully through the examination of our actuaries, and I may say that the information we have laid before you to-day was not before the Court.

Mr. MacKelcan: They were virtually discussed in the Canada Life case by Mr. Bruce, representing the Canada Life.

Mr. MacDonald: I have not that one by me. Mr. MacKelcan asked you to recommend a specific alteration to the Act so as to make it specific to tax at the outside municipalities. We ask you to make it specific that neither at the head office nor outside can that be done, and I do not wonder that there was a weakness in Mr. MacKelcan's sug-

gestion as to a remedy. It is not an easy matter. Mr. Fullerton says that the loss is a loss in not being able to gain by the continuance.

Mr. FULLERTON: That is, the man that lapses.

Mr. MACDONALD: If a company gains I think I have placed sufficient evidence before you to-day to show that there is nobody that benefits by that so much, or to any great extent beyond the policy-holder himself, and that fact being before you, I think, takes away the force that Mr. Fullerton would seek to attach to what they all say was rather, I think, a little sharp in regard to this matter. What the gentleman (Mr. Thomas) meant in making that statement was that the expenses of securing the business were so great that, until a policy had been in force for two or three years, that the deficit in regard to that reserve is really not made up until these premiums are paid, subsequent payments.

Mr. FULLERTON: How can that be? Are not your agents, as a rule, paid by so much for each premium they secure, and not by salary?

Mr. MACDONALD: Sometimes by salary. My company believes in paying salaries, for the most part, to its agents. It would apply to every company. I do not think it is more expensive to pay salary than it is to pay commission. Then, Mr. Fullerton further raised a point as to an individual, and instanced a case. Now, I submit that an individual and a company occupy a somewhat different position. The individual instanced by His Lordship Justice MacMahon is not in the same position as a company, such as the one I represent, or the companies represented here to day, That is not an individual taking a certain sum of money and saying, "I will improve this and I will pay it back to you at a certain time;" but we are companies organized by a charter and by an Act of Parliament to transact the business of life insurance, which has to deal with that element or quantity in life, the element of mortality, and therefore the two cases are not at all parallel, they are not on all fours with each other. In the one case we are authorized and brought into existence to deal with this, I was going to say subtle business of life insurance, and in the other case it is an entirely different thing of a man taking money and promising to pay. We have an element in this beyond the mere accumulation of money, there is the element of death.

The CHAIRMAN: Until a few years ago any individual might carry on the business of life insurance just as you are doing.

Mr. MACDONALD: I do not know as to that, I am sure. So that I think there is a difference. The company is in a different position from that of an individual. There were some other points here that I had thought of referring to, but I think we have occupied a great deal of your time to-day, and I would not care to continue.

The CHAIRMAN: Do not hesitate to lay before us anything that you think important, Mr. MacDonald.

Mr. MACDONALD: Mr. Fullerton brought out a point that a man is making payments on his premiums, and he said that is really a matter for taxation, but it occurred to me when he said that, that is really taxing a man's expenditure instead of a man's income. A man has entered into a contract with a company, and that contract provides that he shall pay so much money each year. Now Mr. Fullerton says: "Tax that man for his payments." Well, it is rather a new system to tax a man for his expenditure. If Mr. Fullerton had said, "Tax that man when he comes to get his policy paid," I could understand it, it is something going out to him.

The CHAIRMAN: He would not write off his premium to profit and loss at the end of the year, would he?

Mr. MACDONALD: No, because, as I have already pointed out to you, the liability exists the moment that his premium is paid.

Mr. FULLERTON: Call that deposits and not payments, and my argument will be clear.

The CHAIRMAN: It is just like a payment on land, isn't it?

Mr. MACDONALD: Of course much has been said with regard to municipal protection and all that, but of course in matters of life insurance that does not hold at all.

Mr. MACKELCAN: Taking lives of your policy holders?

Mr. MACDONALD: We are insuring their lives, we do not take them. As to the place where the contract is completed, the point raised by Justice MacMahon, in one sense the contract is completed at the head office, and in another sense it is not complet-

ed at the head office. With my own company the contract is completed really when the policy comes to be delivered. There is on all our policies what we call a countersigning, which is the evidence of the premium being paid, and the policy is really not a delivered policy until that has been countersigned by the agency through whom it is passed to the insured. Then again, with regard to the payments, I think it has been held that we are liable to pay, for example, on a policy issued on the life of a person residing in the Province of Manitoba or in the Province of Quebec, and that we are liable to be sued in those places, and as a matter of fact in all these places we have to appoint by formal appointment someone to represent the companies so that they may have papers served upon them and anything that may be necessary in a legal way, so that you see in that way the contract is really not a contract entirely with the head office because we are liable to be compelled to pay it may be in Manitoba, in Winnipeg, or Montreal or some other place in an outside Province.

Mr. JUSTICE MACMAHON: Say I gave an agent in Hamilton an application for life insurance in your company; it comes down here; you say there is no contract at all until you assent to it by the issuing of a policy. The policy being countersigned by your agent in Hamilton, by whom it is sent, is merely evidence that the company is entrusting that policy to its agent to take the premium for it, and he must not deliver it until the premium is paid, but the contract is virtually concluded as far as it can be concluded when you accept the application and it passes through the medical director, and is assented to by the Board; isn't that the way?

Mr. MACDONALD: The contract for my company is that so soon as the application has been approved by my directors or a majority of the directors, from that moment the Company is on the risk, but it is not very often the case that premiums are paid in advance, so that as a matter of protection we have to arrange it in such a way that the Company shall have the benefit of the protection, and consequently many of the applications have a note to them over the signature of the applicant that this shall not be a binding contract until such and such—until the premium is paid, etc.

Mr. JUSTICE MACMAHON: Of course there is no necessity of sending in the receipt with the policy, but in the subsequent payments that are made, if you transmit the receipts to the local agent he countersigns them and as soon as delivery of the receipt takes place the payment is completed and the contract is completed.

Mr. MACDONALD: Within the time, yes. Then there is another matter to which I was going to allude, but it has really been conceded by Mr. Fullerton, and that is the question brought out by the Chairman or Justice MacMahon as to the right of other provinces to tax; and the fact that they do tax and impose a tax such as was imposed formerly by the City of Toronto is double taxation.

Mr. FULLERTON: Is that so?

Mr. MACDONALD: I was just going to point out this to you, that already in one Province of the Dominion that is the case; I expect the others are likely to follow in the same direction, if anything was done here, in the way of enacting a law similar to your Revenue Act; but in British Columbia the companies are assessed there on the interest arising from investments. It is only within a week that I sent off a return certifying the list of our loans in British Columbia, and we have to pay taxes on that.

Mr. FULLERTON: There is a decision in the Supreme Court which revised a taxation in one of the lower Provinces because the head office was not there.

Mr. MACDONALD: I am not aware of that, but we have already one of the Provinces in the west taxing us on our investments in the way in which the city of Toronto formerly taxed us, and to make a law that would place the tax back where it was before the Revenue Act was passed would, so far as the city of Toronto is concerned, be double taxation.

Mr. THOMAS: One thing strikes me after hearing this discussion, a great deal of which is certainly new to me, that if life insurance companies are to be taxed, the only way to do it fairly and equitably and to avoid a possibility of a double taxation, is to tax the policy holder, and I do not see any reason why they should not be taxed just as well as for me to be taxed on any other class of security.

Mr. JUSTICE MACMAHON: That would be a very simple way of taxation.

Mr. THOMAS: Yes, and it does not matter how it is taxed or how it is paid to the company so long as they know beforehand. The companies do not pay it, after all, the policy holders pay it.

Mr. JUSTICE MACMAHON: I am sure that will receive the assent of all the companies.

Mr. FLEMING: Could you not make the company agents for the municipalities to tax by that means?

Mr. JUSTICE MACMAHON: Perhaps so.

Mr. MACDONALD: We certainly do not want, in behalf of the companies, to have double taxation, that is revenue tax of one per cent. and then the other.

Mr. JUSTICE MACMAHON: There ought not to be double taxation.

Mr. FULLERTON: My recollection is, though speaking with hesitation, that Peters vs. St. John, 21 Supreme Court, 674; prevented double taxation but I may be wrong in my idea that that is the case.

Mr. MACKELCAN: I understand this to be the last meeting of the Commission, and I desire on behalf of myself and those who have been associated with me to express to the members of the Commission our thanks for the close attention with which they have listened to our arguments, sometimes possibly tedious and uninteresting, the uniform courtesy with which they have always listened to all we have had to say, and on my own behalf to say that I have enjoyed very much the discussions that have taken place here, and I think that they have been in very many respects useful and instructive, and those of us who have been here will always look back with pleasant recollections to the days that we have spent in attending this Commission.

Mr. FULLERTON: If the members of the Board will not think it out of place to express my feelings on the same subject, I would like to say that in the experience I have had in addressing courts and dealing with judges I have always thought the courtesy of a judge was best tested by the care he extended to the weaker members of the bar, and I may say it was with the greatest pleasure that I watched the manner in which this Board handled those who came from a distance and those who needed assistance in being able to get before the Commission what was their trouble; and I desire to say that so far as I am concerned, and so far as my observation is concerned, I have never been before any body or board where all persons were treated with more courtesy.

Mr. FLEMING: So say we all.

Mr. HUTTON: I was just going to say that the two gentlemen who have spoken are lawyers, and of course are more accustomed to addressing gentlemen such as you are, but for the laymen who have spoken here I may say that we have received a great deal of help from the questions that have been put by the Board in bringing out the various facts, and I can only regret that more of the Assessment departments of Ontario were not represented at this meeting, because I am sure if they were they would have had a much clearer conception of the Act than they have at present.

The CHAIRMAN: I may say on behalf of the Commission that we are very much obliged to the gentlemen who have just spoken for the good opinion which they have expressed of the manner in which we have endeavoured to discharge our duty, and to say also that we are very much indebted to all the gentlemen who have appeared before us from time to time, for the assistance which they have given us and the pains they have taken to prepare themselves to give that assistance. I only hope that we will be able to make use of the assistance which has been so freely and so fully given to us in preparing and making the report which we will have to make in this very difficult and complicated question. I think I understood you to say, Mr. Kingstone, that you would desire at some future time to be heard before us?

Mr. KINGSTONE: Yes, if you will allow me to speak before you, or I will put in a written statement.

The CHAIRMAN: We are very desirous of hearing everything that can possibly be suggested in relation to any of the subjects that have been discussed, and we will endeavour to give you an opportunity of appearing before us some time or other. We will let you know.

Adjourned at 5 p.m., *sine die*.

TWENTIETH DAY—WEDNESDAY, JAN. 9th, 1901.

Commission met at 11 a.m., Mr. JUSTICE MACMAHON presiding in the absence through illness of Mr. JUSTICE MACLENNAN.

Mr. F. W. KINGSTONE, representing the Edinburgh Life Assurance Co. said: I wish to say on behalf of the Edinburgh Life that their position is slightly different from that of the other life insurance companies that have been presented before you. The Edinburgh life used to do life insurance business in Toronto and in Canada generally several years ago, but it withdrew from that business and is now only collecting the premiums of old policies. Mr. David Higgins is the agent for that purpose, and has nothing to do with the investments. The object I have in coming before you is to state the case of the company so far as taxation on their investments is concerned. They have little or no interest in the question of premiums on policies, which are very small at present, and which are getting smaller every year, or even on loans on policies, which are very small. The whole question in which they are interested is the question of the taxation of the income derived by them from their mortgages, and especially in this case from mortgages in the City of Toronto. They have not been taxed until the last year or so for any income derived from their investments, as a matter of fact, but about five years ago they decided to invest money in this Province, and then the board sent out the manager and two directors, and they decided to make investments in this country in the following manner:—Any applications for investments have to be sent to me as their agent or solicitor of the company, and I send them home to Edinburgh after first consulting three gentlemen who are upon the advisory committee. It is ultimately a question for the board there as to whether they will accept these or not, and at least in one case they have rejected them. When they decide to accept them, they cable out to me that they have accepted it, and I proceed to draw the mortgages and proceed with the investment. The usual way was till quite recently to draw on them for the amount and gave the draft to the borrower who cashed it at his own expense; and then the principal and interest, as I can show you by the old mortgages, were payable in Edinburgh by drafts on London. That was the way until recently, when at the request of some borrowers it was arranged to have an account in the Bank of Commerce, so that whenever money was required we drew upon them for the amount and gave them a cheque here and allowed the principal and interest to be repaid here. When they were assessing for next year, we were assessed for $19,600. I appealed on behalf of the company, and the matter came up before Judge McDougall, who gave a judgment in the matter and decided, as I understand his judgment, that we should not be assessed on income here, as there was no branch or agency of the company in this country for the purpose of investments, but that because we had deposited $14,000 during the year in the Canadian Bank of Commerce, for that reason—and as I understand, for that reason alone—he decided that the city was entitled to assess the company for that $14,000; and that, of course, I suppose stands as law until it is held otherwise. But, assuming that to be the case, then I would say that it is unjust that that law should be allowed to prevail, for several reasons—and that, I suppose, is the only question you will take up, as to whether it is just or unjust, or whether it is equitable or advisable. In the first place the company, as I understand it, would then be paying taxes three times over on the same income. They pay taxes to the Province under the supplementary Revenue Act. They pay also in Edinburgh on the Income Tax; that I will refer to again. I may say that at the last meeting of this commission which I attended, I stated that I understood that to be the case, and I wrote over in order to ascertain with more correctness what the exact state of the matter was, and I got a cablegram which I must confess I did not understand, and which I can only understand now by supposing that in consequence of the manager (who has been manager for a great number of years) having left, and another man being appointed, he was not acquainted with the exact state of the facts. However, I had better read it just as I received it:—"Tax though not payable here on interest retained in Canada may shortly be exacted. Ontario Provincial Tax payable." Then evidently they found they had made a mistake, for on 31st December they cabled me again:—"Tax now charged"—from which I inferred—of course there had been no letter at that date—that they have to pay an income tax on the revenues which they received in Toronto. In that case they would pay the

income tax three times over on the same income—one to the Province of Ontario, another to the Government in Great Britain, and a third to the City of Toronto. Then I claim that assuming the decision of Judge McDougall to be correct it will really be a senseless proceeding to attempt to carry that out, for the result of that would be that the company would simply add the amount of the tax to the rate of interest, and thereby the borrowers would have to pay the extra rate of interest. As a matter of fact they will have to do so now if they insist upon it, because of the terms of our mortgage there is an express provision that any taxes which the company have to pay in respect to these mortgages, whether municipal or otherwise, must be paid by the borrowers, so that in that case the borrowers here would have to pay not merely the full tax on the amount they have mortgaged, but they would also have to pay an extra tax which the city would impose upon them. Then I say we have received and would receive no benefit whatever from any taxes imposed by the city. We have no buildings or offices here. We have nothing here which can be any way benefited by a tax. The borrowers of course get a benefit from it, but the borrowers pay the full taxes on their loan. Then again I would object that it is very inadvisable to do anything which would in any way prevent money coming into the country at a low rate of interest. The Edinburgh Life does not interfere materially with the loan companies or other parties who lend in small sums to ordinary borrowers. Their loans are nearly all made to merchants in large sums. They will not entertain any loan of a smaller sum than $10,000 on business property, or less than $5,000 on private residence, and most of their loans are large ones, the benefit of which the city is now receiving. I do not suppose it would be advisable for me to refer to individual cases, but I may say that to my knowledge several of the large buildings recently put up in Toronto have been put up in one of two ways: either by a party borrowing on his other property and spending the money in building, as there is one going on at present, or in ascertaining from the Edinburgh Life that they could get money at a low rate when the building was finished and then going on the faith of that, and the money being loaned when the building was finished and occupied. If this proposed arrangement of the municipality charging the company on the income should be allowed, the result would be that it would discourage the Edinburgh Life from bringing money out here and lending it at a low rate, and the company would suffer and the city would suffer in consequence. I do not think I need say much more, but I have some of those mortgages here, which would explain how they are payable in that way.

Mr. JUSTICE MACMAHON: Your statement is all that is required.

Mr. KINGSTONE: They are payable in the old country, and they would only be all made payable in the same way, and if made payable in that way the result would be that the city would get nothing according to the decision of Judge McDougall, because they would be sent over by draft to England, or the draft would be sent to us and we would send it over to England, and there would be no money paid into the bank. It seems to me absurd that because money is paid into the bank, and sent away perhaps the next day, that for that reason the city should be entitled to charge us with income tax on that money. Suppose it was a promissory note that was being sent out here for collection, and collected here and sent back to Edinburgh, it would seem absurd that because the money was paid in in the morning and sent off in the afternoon that the city should be entitled to charge on that money as personal property.

Mr. WILKIE: Of course you could do business if the policy of the company was altered; you have all the machinery, I suppose—all the permits and licenses and everything else?

Mr. KINGSTONE: We have authority, of course, from the Province to do so, and we can proceed to lend money, and are lending money at the present time.

Mr. WILKIE: And doing insurance business at the same time?

Mr. KINGSTONE: No.

Mr. WILKIE: You are at liberty to re-commence.

Mr. KINGSTONE: We would have to put up new deposits and all that sort of thing. We retired thirty years ago from lending money. We are simply collecting the premiums on the old policies, which are diminishing every year, and no new policies are being granted, I think, no new applications being taken for policies in this country at all.

Mr. WILKIE: Does the same state of affairs exist in regard to any other company that you are aware of, or is yours an isolated case?

Mr. KINGSTONE: I am not aware that there is any other company exactly in our position. I think all the other companies that I know of are doing a life insurance business here. I think our company is the only one that is exactly in that position, I am not sure about the Star Life, whether they are doing business or not.

Mr. JUSTICE MACMAHON: I imagine they are, because they have recently put up a very handsome building in Ottawa.

Mr. KINGSTONE: I was not aware of that. The Edinburgh Life is the only case of that kind, except one case which is somewhat similar, and which I represent in this country, but they have no Advisory Board, and we have not yet been charged an income on it, and I don't want to bring the question up, but it only does a very small business any way on investments.

Mr. PRATT: You think, then, although you do business in Toronto you should pay no taxes in Toronto? We understand you in that way?

Mr. KINGSTONE: I think we ought not to pay any taxes here, because the business is done in Edinburgh. No loan can be accepted in this country; we are simply a feeder in Toronto for the business in Edinburgh. The head office is in Edinburgh; no loans can be accepted by anybody here, no matter whether the Advisory Board recommend it or not.

Mr. PRATT: You are carrying on a business in Toronto?

Mr. KINGSTONE: We are in one sense carrying it on, but not in another sense. We have no branch office here.

Mr. JUSTICE MACMAHON: When a loan is accepted it is accepted here?

Mr. KINGTONE: No, it is accepted in Edinburgh; the cablegram comes out.

Mr. JUSTICE MACMAHON: They merely formulate the acceptance there. The acceptance is communicated through your office here to the borrower.

Mr. KINGSTONE: Yes, but the application is sent to Edinburgh, and accepted or rejected in Edinburgh. It cannot be accepted or rejected in this country. We have no means of telling, until the Board meets there, whether it will be accepted or rejected.

Mr. JUSTICE MACMAHON: There is no means of communication to the borrower that the offer has been accepted until the acceptance reaches here?

Mr. KINGSTONE: No.

Mr. JUSTICE MACMAHON: And it is communicated to the borrower through the agent of the company, at least through its solicitor?

Mr. KINGSTONE: Through the solicitor of the company, yes, that is the position of the matter.

Mr. WILKIE: Did your company object to being taxed by the Provincial Government on the same ground?

Mr. KINGSTONE: Not on the same grounds. We did attack that, and we had rather a fight there in the matter; and I discussed it with Mr. Christopher Robinson, and I drafted an Act which would be acceptable to us, which Act has been practically accepted by the Government and passed at the last session. I attended several times, and we were going to dispute the right there, but as it is now they have assented to that view. The Act as it now stands is practically, as far as the Edinburgh Life is concerned, the case that they assented to, and we pay a revenue tax on the investments. At that time what our company objected to was that they had to pay on debentures. Well, all the debentures we had were on outside municipalities, and it was a serious matter to pay interest on debentures many of which were purchased in the Old Country without reference to me, and it was claimed by the Government that they should pay revenue on the interest that they derived from those debentures. That has now been got over, and it is simply a question of income on the ordinary investments.

Mr. PRATT: Do you loan money in Montreal?

Mr. KINGSTONE: No, we don't lend anything outside of this Province, except in Winnipeg. They do there, but they don't do it through me.

Mr. PRATT: Do they pay a tax on it in Winnipeg?

Mr. KINGSTONE: I don't know. I have nothing to do with it. They have their own firm of solicitors there, and attend to the business there.

Mr. JUSTICE MACMAHON: Mr. Caswell, do you wish to say anything?

Mr. THOS. CASWELL (Solicitor of the Corporation of the City of Toronto): Judge McDougall sets out all the facts in his judgment in connection with the Edinburgh Life

appeal. It does not seem to me that a company bringing in money and investing and competing with local companies should be in any better position than the local companies. Suppose $100,000 is raised here by local capital and lent out to persons wanting to borrow on their houses and properties, surely they should not be in any worse position than the Edinburgh Life, that finds they cannot get a large rate of interest in Scotland, and they send some of it over to Canada to invest it. Every day our loan companies go to the Old Country and borrow on their own debentures at a small rate of interest, and they bring it here and loan it out to our people at a higher rate of interest. Now, are they to be put in a worse position than the Edinburgh Life? They have to borrow in the Old Country at 2½ or 3 per cent., and they come out here and lend it at 5 or 6 on mortgages. Why should the Edinburgh Life be in a position to come here and do a share of our business at an advantage? Take the Ætna Life; they are an American institution; they choose to come in here and take policies, take premiums in this country, and they loan money. Why should they not pay interest upon the income derived from their loans? And if the Edinburgh Life is to be free because it simply does a loan business, then why should not a life insurance company be free that does both classes of business? The North of Scotland Company has been practically doing just what this company is doing. Their head office is Aberdeen, and their case is reported here in 33 C. P., p. 552. Their loans are reported to the Old Country, their money is practically sent back to the Old Country, because, as I understand, it is a Scotch company having Osler & Hammond as their agents here; and in that case they tried to get out of paying interest upon their profits, upon their earnings here. It was held in that case that it was within the meaning of the sections. There is a company doing a large business; why should the Edinburgh Life, because it is doing a small business which produces $10,000 or $14,000, be any different from the North of Scotland, which produces, perhaps, $200,000? It seems to me that the question of amount they do is not here; it is the question whether money brought into this country and lent out should not bear its fair share of taxation the same as the individual. Suppose Mr. Wilkie or Mr. Gooderham loans out money here, we charge him upon the interest he gets upon his investments. Why should Mr. Gooderham be in any worse position or in any better position than the Edinburgh Life, the one living in Scotland and the other in Toronto? If interest is to be taxed they should both be taxed.

Mr. KINGSTONE: The North of Scotland has an office here, has a Board here, accepts and rejects their loans here, and carries on their whole business here and receives their money here. In the other case the Edinburgh Life is taxed in Edinburgh upon their income, and it is entirely different from the North of Scotland or from Mr. Gooderham, who has his residence here.

Mr. JUSTICE MACMAHON: The North of Scotland is taxed upon its real estate as well as its loans. The fact of having a building in which they carry on their business is rather against them. They had better keep all their money in Scotland and send it out here to the solicitors, Messrs. Aylesworth & Co.

Mr. KINGSTONE: They can accept their loans here, as I understand it; they have not to wait. The position of the Edinburgh Life differs from all these companies that are referred to in this respect, that the whole business is done in Edinburgh, and it is merely carried out here. I don't see how they could touch it otherwise, supposing they did not choose to have the business come through me.

Mr. JUSTICE MACMAHON: You only lend in large sums?

Mr. KINGSTONE: Yes.

Mr. JUSTICE MACMAHON: And your rate of interest is——

Mr. KINGSTONE: A low rate—from 4 to 4½, according to the sum. For $20,000 it is 4 per cent.; under $20,000 it is 4½ per cent.

Mr. WILKIE: What is the amount of taxes that has been paid this last year?

Mr. KINGSTONE: We have paid nothing yet. We have paid, I believe, but it was overlooked the previous year. We were assessed for the first time last year; $19,600 is the amount of the income which they assess us for. Judge McDougall held that they could not assess us in connection with the mortgages where the principal and interest were made payable in the Old Country and the money was sent there, and therefore it is only in connection with $14,000, which is the amount of interest which had been paid into the bank here, which he considers is liable to assessment. The effect of that will be

that the mortgage will be all changed, the money will be all paid in Edinburgh, and the city will have no revenue.

Mr. CASWELL: That is the very reason why the Commission should change the law.

Mr. FRANK MACKELCAN (City Solicitor, Hamilton): I quite agree with Mr. Caswell. The interest on mortgages is now subject to assessment as personal property. The interest on mortgages in the Province of Ontario issues out of these properties; it is a localized income property, and if companies or individuals living in the Province are liable to assessment upon that personal property there is no reason why the same personal property should not be liable to local assessment, even though it belongs to persons who are beyond the limits of the Province. It would put the Edinburgh Life Company and every similar company in the position of unjust preference over loan companies and local life insurance companies, and also local investors, if they were to escape taxation upon this personal property, while all the other companies and individuals I have named have to pay this local taxation. It seems to me that the law should be so framed that they will bear the same share of the burden of taxation as other investors are obliged to bear. They have a local status here, it matters not whether they have an office managed by a local director or a local manager or agent, or whether their business here is transacted entirely through the solicitor. They have to be here on the spot represented by somebody in order to transact this business and to effect these investments, and that being the case, they come within the jurisdiction of the local authorities; they are within the Provincial jurisdiction. We can tax them, and I think we ought to tax them to the same extent that we tax other companies and investors who derive income from similar securities.

Mr. CASWELL: If this principle were allowed, that each person could seek investments in towns and cities other than the one he lives in, and escape local taxation altogether, then a man living in Toronto would take all his loans in Kingston and Ottawa and the other places, and have no local office, but do his business by correspondence. Then the Kingston man might send his money to Toronto and other towns. Surely that principle of letting people out of taxation because they have not actually a head office and carrying on business ought not to be encouraged.

Mr. JUSTICE MACMAHON: Take the Standard Life, which loans a good deal of money in this Province, and I suppose that they have no Board here that can pass upon applications for loans. They may have in Montreal; the head office for this country is in Montreal.

Mr. WILKIE: Yes, in Montreal.

Mr. JUSTICE MACMAHON: I know they lend a good deal of money throughout this Province.

Mr. MACPHERSON: They pay taxes in Montreal, I suppose?

Mr. JUSTICE MACMAHON: They pay taxes in Montreal.

Mr. WILKIE: But there are no taxes there on personalty. They pay taxes as a permit to do business of an insurance company, and they pay taxes on their building.

Mr. JUSTICE MACMAHON: So that their agent here who collects premiums on the policies, and who doubtless collects interest on the mortgages, would stand in the same relation to that company as Mr. Kingstone does to the Edinburgh Life.

Mr. WILKIE: I think they take the precaution of having the interest payable in Montreal.

Mr. JUSTICE MACMAHON: No, it is payable here to Mr. Kerr, and he collects the premiums; I know that they collect the premiums on the policies, for I have had a policy for thirty years, and I imagine from a case that was before me that the interest is collected here also. Is there anything else that you wish to address us on, Mr. MacKelcan?

Mr. MACKELCAN: No other subject, as I understand, that has not been fully covered by discussions already.

APPENDIX A.

CONTAINING DOCUMENTS REFERRED TO IN THE DISCUSSION AT THE PUBLIC SITTINGS OF THE ONTARIO ASSESSMENT COMMISSION.

No. 1.

(*Referred to p.* 9.)

MEMORANDUM FROM THE SINGLE TAX ASSOCIATION, TORONTO

To the Ontario Assessment Commission:

Realizing the paramount importance of a thorough investigation of our present system of taxation, we desire to express our gratification that the government has seen fit to open the enquiry through the medium of your honourable body.

As citizens of Toronto, and as representing largely the disinterested, and independent thought of the community, (as we believe we do) we beg leave to submit the following facts and considerations.

In so doing we shall avail ourselves of the report of a similar commission appointed by the State of Illinois, that of the Illinois Bureau of Labour statistics for 1896, as the methods of taxation employed in that State correspond largely with our own, the report (so far as it deals with general results and tendencies) is of great value, as those results will be recognized as having more than local significance, being in fact inseparable from the system.

SINGLE TAX ASSOCIATION,
JULIAN SALE, President.
ALAN THOMPSON, Chairman of Committee.

Toronto, Nov. 13th, 1900.

TAXATION IN GENERAL.

Chief among the instruments of tyrannical power is taxation. Great fights for freedom testify to a common feeling an instinct that the vitality of tyranny resides in this power. Wat Tyler and his "hundred thousand Kentish men" rushing upon London, received their impulse from the administration of odious tax laws. The South German Peasant War of the 16th century was a revolt of plundered tillers of the soil, whose products had, in taxes and in tithes and rents and feudal services that were essentially taxes, been snatched from them for the enrichment of patristic nobles. The ship tax which Hampden refused to pay brought Charles I to the block and led up to the English constitution. The French revolution with its culminating carnival of blood was in its origin the uprising of a tax-plundered people. The United States War of Independence, a war that lost to England her most important colonial possessions, was a war against tyrannical taxation. To consider other than sanguinary struggles, England in her great corn law agitation of fifty years ago offers a splendid example of the truth that freedom's battles are fought over questions of taxation.

Wholly aside from historical suggestions, a little thought sufficiently demonstrates that he who controls taxation may, at his own whim, make men rich or poor. With a simple demand he transforms indolent favourites into an arrogant aristocracy by impoverishing the industrious and thrifty. To hold the people's purse strings is to determine their destiny. It was no superficial reform, that of England (imitated by the founders of

our Government) which took the revenue power away from the monarch and placed it in the custody of the Commons But it is not necessary to tyranny that the power of taxation should be formally lodged with a single person or class. With favouring systems of taxation, tyranny flourishes in democracies as well as in monarchies. Though differing in its manifestations and more subtle in its outreachings, it may be none the less oppressive. It is the manner in which a tax operates, not merely the form of government by which it is imposed, that throws its influence upon the one side or the other of the boundary between liberty and tyranny. Parliaments, congresses, constitutional conventions, legislatures and assessors may just as surely though unintentionally and unconsciously undermine the liberties of the people by their methods of imposing taxes, as could the most selfish and cunning man among us if he were invested with despotic taxing power. As Prof. Ely says:—"Taxation may create monopolies, or it may prevent them; it may diffuse wealth or it may concentrate it: it may promote liberty and equality of rights, or it may tend to the establishment of tyranny and despotism; it may be used to bring about reforms, or it may be so laid as to aggravate existing grievances and foster dissension and hatred among classes; taxation may be so controlled by the skillful hand as to give free scope to every opportunity for the creation of wealth or for the advancement of all true interests of states and cities, or it may be so shaped by ignoramuses as to place a dead weight on a community in the race for industrial supremacy."

When common liberties are thus undermined, the process in the beginning is apt to bear most heavily on the labouring class. Though in its advances it must ultimately subjugate merchant and manufacturer, farmer and professional man, every industrial grade, in brief, and establish a privileged class—an aristocracy of unearned wealth—over them all, yet working men first yield to the pressure. They fall the easiest victims to taxes which burden consumption; they suffer most from under assessments which discriminate in favour of large owners against the small; they first become dependent beggars for work under fiscal policies which, while obstructing enterprise, promote the forestalling of land.

This class serves, too, as a barometer of the industrial decline which wrong systems of taxation cause. Business men fail, professional men struggle in vain for place, farmers work hard and die poor; but these men seem like exceptional cases. No matter how numerous they may be, there are still enough examples of successful business men, of triumphant professional men, and of rich farmers, to account for failure on the score of incompetency or bad luck. Not so with the labouring class. With that class, when opportunities for work diminish and wages fall, the condition is so universal as to infallibly indicate oppressive industrial changes.

It will be well for us now to consider the leading principles of taxation.

Public and Private Taxation Distinguished.

Taxes may be either for public or private purposes.

Profits from franchises empowering individuals or corporations to control monopolies of any kind are private taxes. Although the monopolists render services to the public in the construction and operation of agencies of common convenience, the fair receipts for which are just earnings, yet, as their franchises enable them to exact exorbitant tolls, even to the extent, in the absence of partially effective competition, of demanding "all the traffic will bear," their excessive charges for services are in the nature of taxes, and being for private use are private taxes. The franchises here alluded to are familiar and of great variety. They are those for railroads, street cars, telegraphs, water systems, telephones, gas works, electric lighting systems, and so on, including all grants from the Government, the State, the County, the City, the Town, or other authority, for carrying on any kind of business which from its nature requires an exercise of the right of eminent domain.

Ground rents, too, are private taxes. The amount of ground rent that any person will give for a particular site upon the earth's surface is dependent mainly upon the public advantages which that site controls. So with the amount he would pay if the right of control were commuted for a gross sum, as when sites are bought and sold outright. Power to exact ground rents and sums in commutation, unlike the power to exact wages for work or prices for goods, is almost wholly a power of charging for the

enjoyment of those public benefits which society affords. If the state exercised this power directly, the proceeds would be public taxes. When individuals exercise it, the proceeds are private taxes.

All taxes levied for public revenue are public taxes. It is true that they may be, and that to a large extent they do, serve private ends and menace common interests incidentally, with as much effect as some private taxation does directly. Most of them actually co-operate with private taxation in promoting its objects. But there are methods of public taxation, which, so far from co operating with private taxation to serve private interests at the expense of common rights, operate as antidotes to the evils of private taxation, while justly supplying the public with all necessary revenues.

Public Taxation—Its Incidence and Principle of Apportionment.

Public taxes may be considered from two principal points of view. The first bears upon the incidence, whether it should be direct—resting finally upon the first payer, or indirect—shifting from the first payer in higher prices for taxed commodities. The second looks towards the principle of apportionment according to which taxes should be paid, whether in proportion to the ability of the tax payer, or in proportion to the value of the benefits he received from the public.

Incidence of Public Taxation—Direct or Indirect.

William Pitt, in a speech in the British Parliament, is reported as having said:—

"To levy a direct tax of 7 per cent., is a dangerous experiment in a free country, "and may excite revolt; but there is a method by which you can tax the last rag from "the back and the last bite from the mouth without causing a murmur against high "taxes; and that is to tax a great many articles of daily use and necessity so indirectly "that the people will pay them and not know it. Their grumbling then will be of hard "times, but they will not know that the hard times are caused by taxations."

Pitt's ironical plea for indirect taxation confirms the opinion already expressed regarding the importance of taxation as a labour question. When taxes are levied indirectly upon consumption, whoever works for a living, be he property owner or not, is a tax payer; and the stealthy manner in which tax burdens are thus thrust upon the labouring classes, the secret and subtle ways in which taxes are filched from their pockets, produces a wide spread conviction that those classes contribute nothing to the support of the government. It is this impression that lends plausibility to the occasional advice of wealthy men that the poor be disfranchised in municipal elections; since they contribute nothing to the municipal treasury, so the argument runs, they should have no voice in municipal expenditures. And when the poor resent such advice, they are apt to do so for almost any other conceivable reason than the falsity of the ascertion upon which it is made, so imbued are they themselves with the notion that they are not tax payers.

This vicious species of taxation is not peculiar to tariff taxes; it is local as well as national. All regular taxes upon commodities in the regular course of exchange, and upon business buildings and machinery, together with those upon rented buildings, whether the tax be imposed by municipal, state or federal authority, are of the same character. The burden of ultimate payment is borne by ultimate consumers. Direct and indirect taxation have often been distinguished by economic authorities. John Stuart Mill defined a direct tax as "one which is demanded from the very persons who it is intended or desired should pay it," and indirect taxes are those "which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another."

But the difference is so obvious that any intelligent mind will recognize it without other aid than the calling of attention to it. Taxes whose burden is usually passed on in the form of higher prices, evidently differ radically in character from those whose burden is, as a rule, finally borne by original payers. And whether we distinguish this difference by the terms "direct" and "indirect," or by other terms possibly more expressive is of little moment, provided the two ideas be kept distinct. Without attempting to fully specify, examples of each kind are given.

Examples of Indirect Taxation.

A tax upon importers is indirect. It is part of the cost of doing an importing business, and together with other expenses of the business is recovered in the prices of imported goods. If such a tax be lowered, competition forces importers to give the benefit to their customers; if it be increased, the extra cost of doing business enables them to recoup it from their customers.

So, too, a tax upon manufacturers as manufacturers is indirect, whether for materials, machinery, factory buildings, or out put, it becomes as truly a part of the cost of manufacturing as do wages or freight bills, and along with wages and freight bills it merges into the cost of products and becomes a part of price.

It is the same with merchants as such, both wholesalers and retailers. Indirect taxes paid by those before them in the long column of producers—by importers, manufacturers and material and implement men of every grade and variety—together with their own taxes of the same character, are collected through the retailer from consumers who buy the goods. And upon those consumers, though they are not accounted tax-payers in this connection, the whole enormous burden finally rests.

Nor is the magnitude of this burden fully measured by what government receives. As each business tax is part of the cost of doing the business for which it is paid, payers of the tax are able under the laws of competition to exact from their customers not only the amount of the tax, but also the ordinary rate of profit in their line of business upon that amount, just as with other business expenses. Consequently the cost of commodities to consumers consists not alone of the cost and profits involved in making and delivering the goods, nor even of that amount plus all the taxes paid in the process, but of that amount plus all taxes paid in the process, together with all profits upon those taxes.

That taxes upon business operations are not always shifted does not disprove the rule. Taxes upon beer may be slightly raised or lowered without changing the retail price. The same is is true of slight upward or downward modifications of taxes upon proprietary medicines, and of those upon such other commodities as are to a degree subject to monopolistic control. But these apparent exceptions imply no more than that political economy, to adapt the sense of one of our legal maxims, does not consider trifles. Let the tax on beer or proprietary medicines, or the like, be much raised, and the principal operates forthwith, either in augmented price, in diminished quantity or inferior quality. These things are not "sold close," consequently slight changes in taxation may be ignored, but most commodities being produced in circumstances of keen competition are "sold close," and changes in taxation, like changes in the cost of materials, quickly express themselves either in price or in variations as to quantity or quality.

From these examples it may be seen how deeply the subtle system of indirect taxation probes the pockets of the consumers. When a man hires apartments for his family, a portion of the house tax adds itself to what the rent would otherwise be. When he buys goods at the store, the taxes theretofore paid upon those goods, at the custom house, if they are imported, at the factory if they are domestic, and by the storekeeper in either case, are kneaded into the price. And, in addition, all the myriad taxes upon the buildings and materials and machinery necessary to bring these apartments and those goods into place and condition for his use, and all the myriad profits upon those myriad taxes have had the influence of raising the rent of his home and the price of his food and clothing and furniture and luxuries. The poor are all the time paying taxes, if indirect taxation prevails. And, as most of our taxation is indirect, a large proportion of the taxes which rich men advance, and upon which they pose as tax payers while urging the disfranchisement of the poor, are actually paid by the poor.

Examples of Direct Taxation.

While indirect taxes are manifold and multifarious, direct taxes are few and simple. One species is the taxation on inheritances. He who inherits an estate or to whom one passes by will, whether it be in the form of personal property or real estate, cannot recover from any one the amount of a tax deducted. No question of cost of production enters it. The estate is reduced by that amount, that is all. This is true also of income taxes. When a man's income, earned and received, is shaved down by the taxing power, it

remains shaved down ; no question of cost production is involved. And so of taxes upon ground rents or site values. Such taxes, instead of shifting to tenant or purchaser in higher rents or prices, rest upon the original payer—the owner of the site. Ground rent or site value, which is simply a premium for advantageous location, cannot be increased by regularly taxing part of it away, any more than it could be by regularly giving part of it away. Besides these three, and taxes upon monopoly franchises, there are no direct taxes of importance.

Political and Moral Influence of Direct and Indirect Taxation Respectively.

One of the worst general effects of indirect taxation is the notion it generates and nourishes, that the public treasury is a public crib, at which he who gets a chance to feed is in luck, and he who does not loses nothing by this lucky chance. The fact that others pay what public beneficiaries receive is hidden in the secrecy of the system The government is supposed to derive its income from some magical source. Neither in the beneficiaries of its favours, therefore, nor in the public conscience is there any serious sense of wrong in getting from it all that can be got, provided criminal conviction and punishment be avoided. Thus the whole community is demoralized. Bounties are lobbied for, donations are solicited, pensions are grabbed, officers are regarded as sinecures, even public stationery is applied in quantities to private use. Thus grand larceny and petit larceny flourish with the people for victims, so long as indirect taxation prevails. What of it? No one suffers All comes from the government's magical purse! It is not like robbing a neighbour ; it is more like helping one's self from treasure trove. Such is the common feeling. Just as on hand there grows up a sentiment that the so called non-tax payer should have no voice in the distribution of public funds, so on the other there grows up a sentiment that public funds are objects for common plunder, and he who gets most is the best fellow. Could anything more effective be devised for undermining and debauching public morals?

Though fraud might flourish under the opposite system of levying taxes indirectly, it could not flourish with the approbation of the community. There would be nothing magical then about the government purse. Every one would know that he was a contributor to that purse, and a victim to any raid that might be made on it. It would establish a direct and visible line of responsibility between tax payers and tax consumers and make every tax payer a watch-dog of the public treasury.

Principle of Apportionment According to Ability or to Benefits.

As was previously stated, questions of public taxation are to be considered, not only with reference to their incidence, but also with reference to two conflicting principles of apportionment—in proportion (1) to the ability of the tax payer, and (2) to the benefits he received from the public.

All persons in civilized conditions are recipients of public benefits. Through social institutions order is maintained, life and property are guarded, and peaceful relations with neighbouring peoples are preserved. The resulting tranquility, by stimulating commerce, fosters towns and cities, everywhere adding to the opportunities for civilized labour and civilized living. Such is the service which the community as a whole renders to the individuals who compose it. And in the benefits of that service all individuals share, though not equal in degree.

The principle of taxation in proportion to benefits would apportion the taxes of each individual according to the value of such of these benefits as came to him.

Apportionment According to Ability.

While everyone in civilized life is to some degree a recipient of public benefits, everyone (mere dependents and monopolists excepted) is also as fully dependent upon his own exertions as if he were an isolated savage. Services rendered by society co-operate with individual effort; they do not displace it. Merchants and professional men for example, derive great public benefits from opportunities to pursue their vocations at

centres of prosperous communities. Without some such opportunities their business would cease to exist; Robinson Crusoe on his island could not have been a merchant or a lawyer. But their business would as certainly cease to exist if they did not maintain them by their own individual activity. This illustrates the relation of all labour to the community. Individual prosperity in the civilized life naturally depends upon a union of the capibility and energy of the individual himself; with the opportunities for the enjoyment of public benefits; all men who are neither mere dependents upon the one hand nor mere monopolists upon the other, deriving their income from this double source.

It is the relative ability of individuals to turn either of these sources or both together to their own profit, that constitutes the basis of apportionment under the principle of taxation in proportion to ability. That is to say, this principle demands that all distinction between ability to acquire it by individual labour is for purposes of taxation to be ignored; all are to be taxed in proportion to their respective facilities for acquisition.

Policy and Justice of the Two Principles of Apportionment.

Of the better policy of taxation in proportion to benefits there is hardly room for two opinions. To tax an individual the more he produces, is calculated to stunt his faculty for contributing to production, and to develop his faculty for monopolizing public benefits. Surely the common good that in selecting a principle of taxation, encouragement of production, rather than that of monopoly, should determine the choice.

On the score of justice there is, if possible, even less room for doubt than on the score of policy. What a man produces belongs to himself. No other principle of property harmonizes with the principles of human freedom. It belongs to him because of his own powers, of which it is a product belonging to him This would be clear enough if each produced alone, so that no man's labour entered into another man's product. But the principle is not changed by co-operative production each gives so much of his labour as may be embodied in the products of others, in exchange for so much of the labour of others as may be embodied in his products. This interchange of labour makes every man's honestly acquired products as truly the result of his own labour, even though literally they embody none of it, as if he had produced them wholly himself,—so truly the result of his own labour that it is more than a figure of speech to say that he did produce them himself. To make no distinction in levying taxes, between ability to thus acquire products of labour, and ability to acquire them by monopolizing public benefits is rank injustice. And this consideration has special force in connection with the producing class, whose wealth is derived in far greater degree from individual labour than from the value of any public benefits its members enjoy.

The following tables are taken from the assessment of the City of Toronto for 1901 and are each typical of a certain class of property as shewn by the heading:—

TABLE 1.

Typical Workingmen's Houses.

Elliott street, north side, Broadview to Boulton.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed value.	
				Land.	Buildings.
48	15	106	$15	$225	$500
50	15	106	15	225	500
Lot	25	106	15	375	Vacant.
"	25	106	15	375	"
"	25	106	15	375	"
58	18.9	106	15	281	900
60	18.9	106	15	281	900
62	18.9	106	15	281	900
64	18.9	106	15	281	900
66	12.6	106	15	187	700
68	12.6	106	15	187	700
70	12 6	106	15	187	
72	12.6	106	15	187	700
Lot	25	106	15	375	Vacant.
"	25	106	15	375	"
80	25	106	15	375	1,000
82	25	106	15	375	1,000
86	25	106	15	375	1,000
88	50	106	15	750	1,250
92	18.6	106	15	277	900
94	18.6	106	15	277	900
96	18.6	106	15	277	900
98	18.6	106	15	277	900
100	18	96	15	270	1,200
102	18	96	15	270	1,200
104	18	96	15	270	1,200
106	18	96	15	270	1,200
108	18	96	15	270	1,200
110	15.5	49	9	139	350
112	15	49	9	135	350
114	15	49	9	135	350
116	18.3	49	9	164	350

TABLE 2.

Typical Medium-class Dwellings.

Ontario street, east side, Wellesley street to St. James avenue.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed value.	
				Land.	Buildings.
Not cor.					
601	30	56	$20	$600	$ 725
603	13	79	30	390	1,000
605	13	79	30	390	1,000
Rear					
603-605	26	53	10	260	500
607	24	132	40	960	300
611	18	132	40	720	900
613	18	132	40	720	900
615	18	132	40	720	900
617	27.3	132	40	1,090	1,250
619	25	132	40	1,000	1,250
621	20	132	40	800	1,700
623	20	132	40	800	1,700
625	21	132	40	840	1,650
627	21	132	40	840	1,650
629	22	132	40	880	1,100
633	18.6	116	37	685	1,200
635	21.6	116	37	795	1,250
637	21.6	116	37	795	1,200
639	21.6	116	37	795	1,200
641	19.6	116	37	720	1,450
643	28.3	116	37	1,045	2,000

TABLE 3.

Typical First class Residence Street.

St George street, west side, Harbord to Bloor.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed value.	
				Land.	Buildings.
120	132.6	203	$95	$12,588	$9,000
122	27	203	90	2,430	2,500
124	26	203	90	2,340	2,500
126	37 6	190	90	3,375	4,000
128	47 6	203	90	4,275	8,500
130	59 6	203	90	5,355	10,000
132	33	203	90	2,970	3,000
134	33	203	90	2,970	12,000
138	40	203	90	3,600	3,700
140	42	203	90	3,780	6,000
142	72	150	90	6,480	8,800
144	40	150	90	3,200	8,000
146	50	190	90	4,500	6,500
150	150	190	90	13,500	10,500
152	50	190	90	4,500	8,000
156	100	190	90	9,000	8,500
158	50	190	90	4,500	6,000
160	50	150	80	4,000	8,700
	75	150	80	6,000	Vacant.
166	75	150	90	6,750	14,000

TABLE 4.

Typical Retail Store Street.

Queen Street East, Sherbourne to Seaton (north side.)

Street No.	Frontage.	Depth.	Rate per foot.	Assessed value.	
				Land.	Buildings.
[illegible]					
216, cor	18	94.8	150	2,725	2,700
218	17.4	94.8	90	1,560	2,[illegible]
220	17.4	94.8	90	1,560	2,600
222	17.4	94.8	90	1,560	2,000
224	17.4	94.8	90	1,560	2,000
228	17.4	94.8	90	1,560	2,000
230	17.4	94.8	90	1,560	2,600
232	17.4	94.8	90	1,560	2,600
234	16.6	135	95	1,567	2,600
236	16.6	135	95	1,567	2,600
238	14.4	100	90	1,290	2,500
240	14.4	100	90	1,290	2,500
21	14.4	100	90	1,290	2,500
2	21.8	100	90	1,950	2,500
1	15	100	90	1,350	2,000
6	15	100	90	1,350	2,000
8	11	100	90	990	900
0	24	100	90	2,160	3,700
2	14.2	100	90	1,275	575
[illegible]	14.3	130	130	1,841	575

TABLE 5.

Typical First-class Retail Street.

Yonge street, west side, King street to Queen street.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed value.	
				Land.	Buildings.
Corner 84	60	90	3,000	180,000	75,000
Rear 84	77	58	100	7,700	vacant
84	21.8	80	1,300	28,166	3,000
86	21.4	80	1,300	27,733	3,000
88	10	80	1,300	13,000	1,500
88½	10	80	1,300	13,000	1,500
90	23	80	1,300	29,900	3,000
92	10.9	80	1,250	13,438	1,250
92½	10.9	80	1,250	13,438	1,250
94	25	145	1,400	35,000	3,000
96½	4.6	145	1,400	18,100	1,300
	29.6	145	400		
98	14.6	145	1,000	14,500	1,000
100	15.3	145	1,000	15,250	1,000
102	14.6	145	1,400	20,300	5,000
104	14.6	145	1,400	20,300	5,000
106	22.8	145	1,400	31,733	4,000
108	16	100	1,300	21,800	1,300
110	16.4	100	1,300	21,233	1,500
112	16.4	100	1,300	21,233	1,700
Rear 108-112	48.8	37.8	100	4,866	2,000
114	23.9	137.8	1,400	33,250	6,000
Cor. 116	24	138	1,650	39,600	7,000
	Adelaide intersects				
118-20	27.6	100	1,500	41,250	7,500
122	25.5	100	1,100	27,958	4,000
126	25.6	100	1,100	28,050	2,000
132	28.2	100	1,100	30,983	2,500
Cor. 134	30	58	50	94,500	(a) 45,500
	22	100	1,100		
	20	158	1,200		
	28	158	1,600		
	Temperance intersects				
Cor. 140	28	100	1,500	42,000	20,000
144	28	100	1,100	28,600	12,000
146	27	99	1,100	29,700	12,000
148	13.6	99	1,100	14,850	2,000
150	13.6	99	1,100	14,850	2,000
152	13.6	99	1,100	14,850	2,000
154	13.6	99	1,100	14,850	2,000
156	18	78	1,100	19,800	5,000
Cor. 158	22	78	1,400	30,800	6,000
	Richmond intersects				
Cor.	34.3	156	1,800	61,650	45,000
	34.3	156	1,500	51,250	
168	22.3	122	1,450	31,150	10,000
170	22	34	50	205,975	(a) 150,000
178	89.11	156	1,500		
Cor.	28	156	2,500		

(a) Buildings unfinished (Simpson's).

TABLE 6

Typical Business Street.

Bay street, west side Temperance to Queen.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed Value.	
				Land.	Buildings
Rear	60	80	$ 50	$3,000	$6,000
	24	90	250	6,000	800
	24	90	250	6,000	900
	21.5	94	250	5,354	700
	21	94	250	5,250	700
	21	95	250	5,250	900
	21	94	250	5,250	900
	21.6	94	250	5,375	900
	21.6	94	350	7,525	4,200
	Richmond St. W., intersects.				
	140	106	250	35,167	(a) 400,000
	33	70	250	7,500	20,000
	13.6	53	200	2,700	50
	Bay St., East Side, Temperance to Queen St.				
Corner	30	81.6	300	23,417	4,000
	57.8	81.6	250		
Corner	87.6	98	325	28,419	60,000
	Richmond St., W., intersects.				
Not Corner	15½	34	150	2,269	50
Queen Street Flankage.	15½	34	150	2,269	50

(a) Temple Building.

TABLE 7.

Typical Light Manufacturing Street.

Lombard street, north side Adelaide to Church streets.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed Value.	
				Land.	Buildings.
56 54	29	90	$125	$3,625	$7,000
50 48	40.9	90	125	5,094	9,000
46 44	40.9	90	125	5,094	9,000
Lane	10.8	90	125	1,333	lane.
42 40	40.6	90	125	5,062	8,000
38 36	40.6	90	125	5,062	8,000
Lane	12	90	125	1,500	lane
34 32	36	90	125	4,500	13,000
30 26	42.6	90	125	5,313	12,000
24 22	24.4	90	125	3,042	5,322
20 18	23 8	90	125	2,958	2,120
16	10.10	90	125	1,354	1,414
14	10.10	90	125	1,354	1,414
12	6	90	125	750	360
10 8	22	90	125	2,750	2,120

TABLE 8.

Typical Wholesale Street.

Front street, south side Yonge to Bay street.

Street No.	Frontage.	Depth.	Rate per foot.	Assessed Value.	
				Land.	Buildings
1	114	200	$550	$62,700	$165,000
9	26	160	300	7,800	9,000
11	26	160	300	7,800	9,000
13	26	160	300	7,800	9,000
15	26	160	300	7,800	9,000
17	26	160	300	7,800	9,000
19	26	160	300	7,800	9,000
21	26	160	300	7,800	9,000
23	26	160	300	7,800	9,000
25	26	160	300	7,800	9,000
27	25.3	160	300	7,575	9,000
29	24.8	160	300	7,400	9,000
31	24.8	160	300	7,400	9,000
33	24.8	160	300	7,400	9,000
35	24.8	160	300	7,400	9,000
37	24.8	160	300	7,400	9,000
39	24.8	160	300	7,400	9,000
41	33	160	300	9,900	10,000
43	33	160	300	9,900	14,000

TABLE 9.

General Assessment for City of Toronto.

Shewing relative percentage of real and personal property from 1871 to 1901.

Year.	Real Estate including buildings.	Per cent. of Total.	Income and personal property.	Per cent. of Total.	
1871	$22,037,471	75.4	$7,239,665	24.6	
1876	37,969,401	80.6	9,180,961	19.4	
1881	44,622,578	82.4	9,537,025	17.6	
1886	60,695,505	83.7	12,020,028	16.3	
1891	132,402,383	89.6	15,373,486	10.4	Height of boom.
1896	129,602,221	91.0	12,862,919	9.0	
1901	114,836,084	89.9	14,118,060	10.9	In 1900 the Scrap Iron judgment came into force.

TABLE 10.

Shewing amount of personal property *per capita* for each five years from 1877.

Year.	Popu'ation.	Personal property assessed (exclusive of income).	Amount per capital.
1877	73,000	$7,086,803	$97.08
1881	77,034	6,207,300	84.21
1886	111,800	7,682,003	68.70
1891	167,439	9,846,676	58.80
1896	176,858	8,181,588	46.26
1901	199,043	9,225,878	46.34

But more important facts are yet to be considered

It will be seen by reference to Table 1 that the value of the improvements exceed the value of the land in the ratio of one to three.

Table 2.—Which shews the assessment of typical medium class dwellings such as are occupied by clerks, small tradesmen, and salaried men generally indicate a large preponderance of improvement value over land though not as great as in Table 1, the value being about three to five.

Table 3.—Represents one of our best residential streets where the houses are large and full of modern improvements; here the improvements though greater than the land value are not nearly so much in excess as in either of the previous tables the ratio being about four to five.

Table 4.—Represents one of our ordinary Retail Store Streets where the dwelling is above the stores; and here the improvements exceed the land value in the ratio of three to five.

Table 5.—Represents a portion of the best retail district in Toronto and probably the most valuable land in the city.

It will be noted here that in no case does the value of the buildings even approach the value of the land, the nearest being Simpson's immense departmental store, six stories in height and here the land is thirty per cent more valuable than the building, while the Lawler building on the corner of King and Yonge Streets is less than half the value of the land it stands on. Outside of these buildings the ratio of land and buildings is as ten to one.

Table 6.—Shews a street in a transition state partially occupied by old tumble down buildings and partially with new modern buildings. On one corner stands the Foresters' Temple assessed at $400,000; next door is a new four storied building put up at $20,000, and next door to this a wooden shed assessed at $50,000 all on practically equally valuable land. Similar conditions prevail on the opposite side. Leaving out the two buildings which are very much more valuable than than the land they occupy, the ratio is seven to one.

Table 7.—Shews a manufacturing street where the ratio is as five to eight.

Table 8.—Shews a wholesale street. On the corner is the Custom House and leaving this out the ratio of the remainder is about as seven-and one-half to nine.

Table 9.—Shews the total assessment of real and personal property for each period of five years from 1871 to 1901. It will be seen that the increase of the personal property has not in any way kept pace with the realty, and taking the percentage it shows an actual falling off of from 24 6 per cent. in 1871 to 10 9 per cent. in 1901.

After making all due allowance for change in the Assessment Act which takes electric railway and light plants etc., as scrap iron it appears to indicate a heavy falling off in the wealth of the city and this is something which is not borne out by observation.

Table 10.—Shews the relationship of the assessed value of personal property to the population from 1877 to date. The assessed value of the personal property of the citizens of Toronto *per capita* it has fallen from $97 08 in 1877 to $46 34 in 1900

This would seem to indicate that the people are growing poorer, but again this is contradicted by the facts of daily observation. The truth of the matter is that the assessors of Toronto in common with their fellows everywhere find it increasingly difficult to assess personal property as the municipality increases in wealth and population In a township or a village the wealth of every man ia known to his neighbour, and so they can be compelled to pay upon an approximately correct valuation of their property But in a city, especially a great city, the value of a man's possessions are known to few, if any, but himself, and so the chance of a correct assessment of concealable property such as personalty is reduced to a minimum.

That the injurious effects of taxing improvements as heavily as sites works a great injustice to the labouring classes by diminishing opportunities for employment is obvious after a moment's thought.

The higher improvements are taxed, the more is the tendency to improve discouraged. This diminishes opportunity for employment. Again, the lower sites are taxed, the stronger is the incentive to make money by holding vacant lots for higher prices, and the weaker the incentive to make money, by means of the labour and risk that would be involved in improving them. This also diminishes opportunity for employment.

We will now proceed to consider specific taxes more in detail and will take up the question of taxation of personal property :—

Objections to the Taxation of Personal Property.

The following extract is taken from page 265 of Illinois report on taxation :—

"In any general property tax system, personalty is, of course, included. But it is "utterly impossible to assess personal property fairly. The tables of this property shew "that only a small portion of personalty is listed at all, that what is listed is grossly "under-assessed, and that the City of Chicago is under listed and under assessed, in far "greater degree than the remainder of the State; they indicate also that the rich are "outrageously under-listed and under assessed as compared with the poor. All this is "neither accidental nor peculiar. It is in harmony with the universal history of per-"sonal property taxation.

"Personal property taxation impoverishes the community that enforces it, and much "of it, withal, is indirect, shifting its burdens in greatest measure, as we have already "seen, upon the poorer classes. Consider the tables that shew the enormous under-"listing and under-assessment of the moneys and credits of banks. Suppose these "moneys and credits were fully and uniformly listed and fairly valued. The tax would "then to that extent increase the cost of doing a banking business in this State, and "moneys and credits would consequently be in great degree driven away to more hospit-"able jurisdiction, while the tax upon so much of the banking business as remained "would be shifted from the banks to their customers in higher rates on discount and "thence distributed through through the community in higher prices for goods and rents "for dwellings. So of taxes upon office buildings, store buildings, factory buildings, "business machinery and fittings, stocks of goods and so on. This in no wise extenuates "the offence of those responsible for the under-listing and under valuations; but it "should suggest the futility of trying to tax the rich by taxing personal property.

"And when should personal property be taxed? Is the supply of personal property "a thing to be kept in check, like the liquor traffic in some places by high license, or "dogs in others by a high dog tax? Or is it something that the community needs? "Something that the more of it there is in the community the better off the people of "that community may be? Is it a friend to be invited in, or an enemy to be driven out? "No man would experience any difficulty in answering for himself. He wants personal "property. The more he gets the better he is satisfied. Neither he nor his family regard "it as a nuisance to be suppressed. Yet every personal property tax increases his diffi-"culty in getting and keeping personal property. Each such tax assists in driving that "kind of property out of his household and and keeping it out Each such tax tends to "lower the quality of the personal property he can afford to own. And every such tax "by thus diminishing demand for personal property tends to diminish opportunities for "employment in making and selling it."

This Species of Taxation Should Be Abolished.

Since real estate includes both site and improvements, a real estate tax falls with greater proportionate severity upon the poor than upon the rich, and farmers like workingmen, would be plundered by it alone, much as they are plundered by it now, when it is part of a general property tax, though not to so high a degree. Farm improvements, when buildings, fencing, clearing, draining, breaking prairie, etc., are classed with improvements where they belong, are worth nearly if not quite so much as their sites. Unless the lands be exceptionally fertile, or exceptionally well located with regard to markets, farm improvements are doubtless worth more than farm sites. And that this is also true of small houses in cities appears from the tables in which properties worth $3,000 down show an improvement value from nearly two to three times as great as their site value. This principle will doubtless hold good with most real property which the working classes, whether farmers, tradesmen, mechanics, or unskilled labourers either own or rent. On the other hand, as the tables show, with the real estate of the rich, improvements are generally much more nearly the value of their sites and frequently exceed them.

Moreover, improvements are wanted in the community just as personal property is. The more we have the better we are off; the finer they are the better we are satisfied. Like personal property they are to be invited in, not kept out; and improvement of their quality is to be encouraged, not obstructed. To tax improvements is to make it harder for the poor to live in good houses, because taxes on houses are paid by occupants, in the form of taxes if they own, and in higher rents if they are tenants. To tax improvements is also to lessen opportunities for employment, because the demand for improvements, in respect of quality if not of quantity, and more likely of both, falls off with the imposition of taxes upon improvements. As the tax upon windows cut off air and light from workingmen's households in England a century ago, so a tax upon buildings now deprives that class of as good accommodation as they might otherwise enjoy; and as the window tax lessened the opportunities for employment in glazing there and then, so building taxes lessen opportunities for employment in building here and now. As every working man knows, the ramifications of the building trades are so extensive that slack work in those trades slackens work in all trades, whose consequently enforced economy would diminish demand in all directions and deaden business of all kinds. In fact it operates in both ways. Inasmuch as personal property taxes should be abolished because they invite fraud, because they are indirect and therefore largely shifted to the labouring classes, and because they tend to deprive of personal property those who need it and want it; so should as much of the real estate tax be abolished as rests upon improvements. The abolition of personal property taxation is a step in the direction of wise and just taxation, and therefore to be commended; but it is neither a wise nor a just finality.

Personal property taxation cannot be fairly enforced. As Prof. Ely observes of the system, "The more you perfect it the worse you make it." A remark based upon the results of an extensive investigation of the subject, in which he everywhere found that "the great cities escaped the personal property tax to a more considerable extent than the smaller cities and villages, and still more than the rural districts."

Upon this point Thomas G. Shearman, in his recent valuable work on "Natural Taxation" says:—

"If anything in human experience, as applied to methods of taxation, is settled it certainly is the fact that taxation upon personal property never can be made a success. Taxes can be raised from personal property, no doubt, for large sums are thus raised: but that they cannot be levied with any reasonable approach to accuracy or equality is demonstrated not only by conclusive reasoning but by the more conclusive fact that they never have been thus levied. It is not for want of earnest and long sustained effort that the failure of this system of taxation has come to pass. For centuries the effort has been made, and for at least six centuries it was backed by all the power of a government which commanded the whole civilized world, and which armed its tax gatherers not with the paltry weapons of oaths and penalties, but with the more substantial powers of indiscriminate search, the lash, the rack, the thumbscrew, the grid-iron and the cross. The Roman Empire fell to pieces under the pressure of this vain effort to reach personal property by taxation. The same thing was attempted, at a later period, in dealing with the Jews. It failed with them. They could be robbed and murdered; but they could not be regularly taxed.

That which all the tremendous power of Rome, in its grandest days failed to accomplish, that which the infernal tortures of Spain could not accomplish, when it beheaded hundreds, burned thousands, and massacred tens of thousands, letting loose a brutal soldiery in a vain struggle to tax the Netherlands, American farmers are still apparently convinced that they can accomplish by distributing blank forms, administering long oaths and threatening penalties of fifty per cent."

Taxation in Proportion to Benefits

An intelligent psychological study of fraudulent taxation would doubtless trace its cause to the wickedly false notion that in its nature taxation is not compensation for benefits received from the public, but tribute exacted by superior power. It is only some such explanation that can reasonably account for the frauds in respect of taxation which are committed from year to year both through silent acquiescence and active connivance, by men who are strictly honest in all other relations of life.

If men were taxed in proportion to the benefits which they derived from the public, they would as quickly shrink from allowing themselves to be under taxed by an assessor as they would from allowing themselves to be undercharged by a merchant's clerk. That some men would still shirk their taxes proves nothing. Some men are dishonest in any relation of life, and taxation according to benefits might not make them honest in matters of taxation; but it is inconceivable that men who are honest in all other relations of life should be dishonest as to their taxes, if taxes were really payments for value received.

Subjects of Taxation Under the Benefits Principle.

That individuals and corporations do derive direct and measurable pecuniary benefits from the public is a peculiar fact.

Corporate Monopoly Franchises.

Street car franchises, water franchises, gas and electric lighting franchises, railroad charters, and the like, are mediums for the conveyance of such public benefits. These are special privileges—monopolies conferred by the public upon individuals—and their owners are not left to "higgle in the market" over charges for service, a process to which all unprivileged occupants are subject, and which inevitably keeps competitive service at its true level of value; the respective franchises empower their owners to enforce payment of a toll or private tax in addition to pay their services would command if they were under the influence of free competition. Owners of such franchises, when they are valuable, clearly receive from the public a pecuniary benefit in which other members of the community do not share. They should pay taxes in proportion to the value of that benefit; that is to say, their taxes should be apportioned, not to the value of their plant or such other tangible property, nor to the value of the services they render, but to the value of their monopoly.

Ground Rents.

Exclusive rights to land are also mediums for conveying pecuniary public benefits to individuals. Power to exact ground rent is power to levy private taxes for the enjoyment of public advantages. It is a direct and measurable pecuniary benefit which the public by continuously maintaining the vitality of land grants and deeds continuously confer upon some people to the exclusion of others, and in higher degrees upon a few than upon the rest. This is the fundamental source of just public revenues. Site value taxation is in proportion to benefits. Henry George says of it: "It falls only upon those who receive from society a peculiar and valuable benefit, and upon them in proportion to the benefit they receive. It is the taking by the community, for the use of the community, of that value which is the creation of the community."

Site Value Taxes are in Proportion to Benefits—Relative Value of Country and City Sites.

The value of the pecuniary public benefits which different owners of the power of exacting ground rents annually enjoy, either in fact or potentially, varies from little or nothing in outlying farming districts to thousands upon thousands of dollars in large cities. The public confers few of the benefits of education, protection, or common convenience upon farmers and other occupants of sparsely settled territory; consequently their kind of land would yield but little ground rent. In villages public benefits are more perfect and more available: ownership of village lots, therefore, would command somewhat higher ground rents. Towns offer still better opportunities for the enjoyment of public benefits, and the owners of town land are accordingly able to exact still higher ground rents. In cities the public benefits are so vast and varied and desirable that owners of some city land draw great fortunes annually in ground rents from the public for allowing it to enjoy these opportunities of its own creation.

Ground rent for central business sites of great cities must appear to farmers like statistics culled from fairy tales. The ground rent from the properties on the west side of Yonge Street from King to Adelaide, though they occupy but an acre of ground,

would yield not less than $30,000 a year, a sum greater than the rental of fifty Ontario farmers with all their improvements. And these city values are not stationary like those of farmers. Sometimes fluctuations carry them temporarily downwards, but the trend has been and continues to be upward.

As an illustration of the steady rise of value of the land without any labour on the part of the owner, let us instance the north-west corner of King and Yonge Streets. In 1833 this lot, 60 x 90, was leased for twenty one years for $4 a foot, the tenant paying all taxes and erecting buildings, and the subsequent renewals were as follows:

1835	rented at	$ 4 00	a foot	$ 240 00
1854	"	16 00	"	960 00
1875	"	100 00	"	6,000 00
1896	demanded	200 00	"	12,000 00
	Offered	150 00	"	9,000 00

Thus in sixty-three years the value increased 37½ times after paying a net income to the owner, which he collected without in any way contributing to the value of the land or spending $1 on the buildings. Truly, as John Stuart Mill says, "The landlord sleeps but thrives."

Site Value Taxation Scientific and Natural.

Answering those who, seeing the unevenness and injustice of the modes of taxation with which we are best acquainted, declare that scientific or natural taxation is impossible.

Thomas G. Sherman writes:—

If we can find in actual operation, in every civilized country a species of taxation which automatically collects from every citizen an amount almost exactly proportioned to the fair and full market value of the benefits which he derives from the government under which he lives and the society which surrounds him, may we not safely infer that this is natural taxation? And is not such taxation capable of being reduced to a science?

Such an automatic, irresistible and universal system does not exist. All over the world men pay to superior authority a tribute, proportioned with wonderful exactness to these social advantages. Each man is compelled to do this by the fact that other men surround him eager to pay tribute in his place, if he will not. The just amount of this tribute is determined by the competition of all his neighbours who calculate to a dollar just how much the privilege is worth to them, and who will gladly take his place and pay in his stead. Every man must, therefore, pay as much as some other man will give for his place; and no man can be made to pay any more.

This tribute is sometimes paid to the State, when it is called a tax, but it is far more often paid to private individuals when it is called ground rent.

Where there is no government there is no ground rent. As government grows more complex and does more for society ground rents increase. Any advantage possessed by one piece of land over another will, it is true, give rise to rent; but that rent cannot be collected without the aid of government; and no advantage in fertility is ever equal in value to the advantage of society and government. An acre of sand on the coast of New Jersey at Atlantic City, Cape May or Long Branch, is worth more rent than a million acres of fertile land five hundred miles distant from all human society. The sixteenth of an acre of bare rock in New York City is worth more than a thousand acres of the best farming land in Manitoba.

Ground rent therefore is the tribute which natural law levies upon every occupant of land, as the market price of all the social as well as all the natural advantages appertaining to that land, including, necessarily, his just share of the cost of government. . . . Here is the exact quid pro quo. No sane man in any ordinary society pays too much rent. He pays no more than some other man is willing to pay for the same privileges. He therefore pays no more than the market value of the advantage which he gains over other men by occupying that precise position on the earth. He gains a certain profit out of that position, which he could not gain elsewhere. That fact is conclusive proof that this profit is not the fruits of his labour, but comes out of some superior fertility in the soil, some superior opportunity for selling the fruits of his labours, some superior protection

from government in the enjoyment of those fruits, or some other advantage of mere position. Thus he receives full value, in exchange for his payment.....

Here is a tax, just, equal, full, fair, paid for full value received, returning full value for the payment, meeting all the requirements of that ideal tax, which professors and practical men alike have declared to be an impossibility. It is not merely a tax which justice allows; it is one which justice demands. It is not merely one which ought to be collected; it is one which infallibility will be and is collected. It is not one merely which the State ought to see collected; it is one which, in the long run, the State cannot prevent from being collected. The State can change the particular landlord; it cannot abolish rent.....

Nature having thus provided a method by which all men pay, of necessity, a tribute sufficient to defray all expenses of government, clearly points to the collection of such expenses from this tribute. We have already seen that Nature and Science condemn every other method of raising public revenue, by making equality and justice impossible under any such method. Do they not with equal clearness and precision, point to the taxation of ground rents as not merely a just method of raising revenue, but also as the only just one? Scientifically speaking, a tax upon ground rents is not a tax at all; it is merely the collection by the State, of a tax already levied by an automatic process. If we call it a tax it is a tax upon the proceeds of taxation and nothing else. Until this source of revenue is exhausted, every other tax is double taxation. So long as this fund remains, every other tax is of necessity unjust, as truly as it would be unjust to squander the proceeds of any tax among a few favoured officials and then levy the whole of the same tax over again upon the people.

General Economic Effects of Site Value Taxation.

To adopt the site value method of taxation is to invite general prosperity. With personal property exempt, its increased consumption would increase the demand for it, and consequently multiply business opportunities in connection with making, carrying and selling it. With landed improvements also exempt, larger and better homes would be demanded, to the stimulation of all branches of the building industry. With vacant lots taxed the same as if improved, and so much that it would be unprofitable to hold them long out of use, speculative values would decline and business be no longer obstructed by exorbitant prices for location.

Workingmen would pay in taxes only what their ground rent privileges were worth. Farmers would pay in taxes no more than their farms would rent for if wholly denuded of buildings, fences and drains, and turned back into raw prairie. Everyone would be benefited through reduced taxes, or better incomes, or both—every one except the mere monopolizer of public benefits.

And the cry of fraudulent taxation, on any other account than an occasional personal dereliction, like a post office embezzlement or a bank robbery, would be heard no more.

Simple, practicable, natural, scientific, and just, as the site value tax doubtless is as a method of raising public revenues, it is at the same time recommended by its supporters as the solution of the labour question; or more correctly, as the natural way of re-investing every labourer with power to settle his own labour question for himself. For it is not the power of employers but the necessities of the unemployed or the inadequately employed that makes employment precarious and wages low. It is not the clubs of policemen, nor the weapons of soldiers that defeat strikes; it is the underbidding of man in worse plight than the strikers. The simple remedy is, by freeing business from monopoly and tax burdens, to open the way for unlimited opportunities for employment so that none need take another's place in order to get remunerative work himself. This it is claimed, the site value tax would do. Reversing present conditions in which men continually hunt for employment, so the argument runs, the site value tax would, by removing obstructions, cause employment to continually hunt for men.

We therefore suggest to your honourable body that the Assessment Act of Ontario be amended so as to permit of:

1. Local option in taxation.
2. Site value taxation.

Local option in taxation has already been granted in British Columbia in so far as exempting all improvements to real estate is concerned, and also in New Zealand, and in both places several municipalities have taken advantage of the permission with markedly beneficial results.

Such a reform would enable each locality to test the system of taxation that was locally most popular, and out of the experience of all a perfected system would most easily and surely be evolved.

Site Value Taxation.

As soon as possible the Ontario Legislature should, by exempting personal property and improvements to real estate from taxation, make it compulsory for municipalities to raise their taxes by a rate upon the site value of the land, and any deficiency in the revenue of the Ontario Government itself should be made up by a land value tax levied by the municipality and paid to the Provincial Government.

This would require a tax upon monopoly franchise as well as land in general, for the value of such franchise is a form of land value.

No. 2.

(Referred to p. 22)

LETTERS FROM FARMERS HAVING FARMS WITHIN THE LIMITS OF VILLAGES.

Listowel, Ont., Oct. 25, 1900.

J. Parrish, Esq.:

Dear Sir,—Yours of the 18th to hand; contents noted. I own a farm of one hundred acres in the corporation of Listowel, for which I have been offered five thousand five hundred dollars. It was assessed last year for $2600; it is assessed this year for the same. My taxes last year were $52.00; they will be the same this year. So you see we are not so bad here as you are in Mitchell. I have only owned my farm ten years, so I am not very well posted, but I know farm property has no right to be assessed for electric light or for water purposes. I think I can still get my taxes reduced. I was in Mitchell some time ago and learned the way farm property was assessed; I thought it was a shame the taxes you had to pay. I am willing to do anything to have taxes on farm property reduced, so they will be about the same as if they were in the township. You see we are not very bad here; were we assessed up as you are in Mitchell I would certainly try to have them reduced.

I will not be in Toronto, but if I can do anything in any way to have the taxes less on farm property I will certainly do so.

Yours truly,

R. R. Hay.

Mitchell, Nov. 28, 1899.

Dear Sir,—Seeing your letter in the *Globe* on the unjust treatment of farmers inside of town corporations, I thought it very good and the best way of dealing with it. I have written to the House while in session and got a copy of a Bill which was good, but it was defeated. I think to send in a petition signed by a large number of farmers who are oppressed would be a far better way of getting at the trouble. I have a farm of 100 acres in the town of Mitchell, Co. Perth. I bought it for $4,000. It had been assessed for $5,000 previous to this; I got it reduced to $4,300. I built a kitchen for less than $200, and they raised it $250 more. I put a foundation under the barn and stabled it

off this summer, and they will likely want to raise me $200 or so more; and if they do I will go before the judge before I will submit to it. I suppose there are cases worse than mine, as I would have had to give more than I did if it had been just out of the limit; but my taxes this year are $91.00, and my next neighbour, who is out and about the same improvements, has $30 taxes (100 acres). You will have my hearty support and co-operation at any time you may call on me.

Yours truly,

JAMES PARRISH.

Newcastle, Nov. 22, 1899.

Dear Sir,—I was much pleased to read your letter in the *Globe* of the 22nd inst. It is very opportune. I think you have struck the right note. That very day (Nov. 20), I and several other farmers signed a petition to be sent to the proper authorities, either the Ontario Legislature or the Lieutenant-Governor, asking to be let out of the village of Newcastle, and to be included in the township of Clarke (County of Durham). The population of Newcastle is about 600, including both villagers and farmers. Our tax rate is 21½ mills on the dollar, a very high rate. The village is lighted by electric lights, has a fire engine and several water tanks on the streets, a high and public school, and a complete system of sidewalks, none of which are of any more benefit to us farmers than to those living outside the corporation; nor are any, except the schools, of any more benefit to us than the same institutions in the nearest town six miles away. It is true we got a small rebate on the sidewalk taxes by constant agitation year after year, but it does not better our case much, as it only makes the general rate a little higher.

I have 146 acres in the corporation on which I pay $130 taxes. I live a mile and three-quarters from the village. If I walk I have to go a mile and a half before I reach a sidewalk. If I drive I must drive along a side road for a mile and a quarter, over which not a cent of taxes has been spent for several years, although the village has a first class road machine.

Our petition is about prepared to be sent now, and if all other farmers in other incorporated villages would also get up petitions so that we could all send them in at the same time I think it would greatly benefit our cause.

Newcastle, W. H. PEARCE.
County of Durham.

Wingham, Dec. 30, 1899.

Dear Sir,—I have been asked to write to you by J. Parrish, of Mitchell, in reference to farms inside of corporations. I was very sorry I did not see your letter in the *Globe* in reference to the matter, but I am willing to go in a body to the Government to see if we cannot get any redress, or anything else that would be best to do. I am personally acquainted with our Premier, G. W. Ross, and I think if we were united in our efforts we might succeed. Hoping to hear from you shortly,

I remain, yours truly,

D. STEWART,
Box 172, Wingham, Ont.

John M. Lyons, Esq.: Tottenham, Ont.

Dear Sir,—I notice your letter in to-day's *Globe*, and agree with you that the outlander is not in it with us. I have 90 acres of a farm 40 of which is in the corporation of Ridgetown, and I have paid as high as one 60 100 dollar per acre taxes on open fields. I take the benefit of Chap. 224, Sec. 8 R.S.O. 1897, but this is a small matter. On the fifty acres in the township are my farm buildings, orchard, etc., and my taxes this year are $13.22. In the town, my forty acres with a dwelling house costs me in taxes $84.86

I would not object to pay my taxes into the town treasury if I did not have more to pay than my neighbour in the township. I would much prefer being placed back in the township, but failing this, would like the law amended so that the township assessor should value the farm lands in the town, and the rate to be imposed by the town should be that imposed by the township from which the farm lands were taken.

If there is any benefit from living close to the town it is more than balanced by the destruction to crops and stock by men, boys, dogs, sparrows, etc., that live in the town and appear to think that the farm is their privileged stamping ground.

If you make a move for our relief let me know how I can help you.

Yours,

Ridgetown, E. D. MITTON.
Nov. 20th, 1899.

See also PETITION from Farmers within the VILLAGE OF PICKERING, No. 25 *infra*.

No. 3,

(*Referred to* p. 58.)

DOCUMENTS PUT IN BY THE BOARD OF TRADE, TORONTO.

REPORT OF MUNICIPAL TAXATION COMMITTEE.

To the Members of the Council:

Gentlemen,—Your Committee beg to report that they have conferred with reference to the approaching meetings of the Assessment Commission, and are of opinion that the efforts of the Council should be particularly directed to Subject of Inquiry No. 2, which reads as follows:—

"The most equitable method of assessing stock in trade and other property "of merchants, merchantile firms and mercantile corporations.—Thursday, "November 15th."

with the object of impressing upon the Commission the iniquity which results from the present mode of personal assessment, which should be absolutely abolished.

All of which is respectfully submitted.

(Sgd.) JAMES D. ALLAN, Chairman.

Toronto, November 13th, 1900.

Adopted as the Report of the Council, November 13th, 1900.

(Sgd.) EDGAR A. WILLS, Secretary.

EXTRACT FROM PRESIDENT'S (MR. EDWARD GURNEY) ANNUAL ADDRESS, 1897.

I hope that a system of taxation better adapted to the encouragement of trade will be adopted, than that which prevails in Toronto at present. The tax on personalty, in addition to being wrong in itself, is provocative of the most barefaced dishonesty, so that the man who will not lie is at a physical disadvantage, whatever may be his moral advantage.

In the early part of the year a test of the Montreal system, that is, a tax on rental of business premises, was applied to a large section of our business centre, and it was found that while as large an amount would in the aggregate be collected, it would be much more equally divided. It was proved beyond a doubt, that enterprise as well as truth are heavily taxed in Toronto, and while I am on this subject of taxation I have to say that attempts to tax certain classes of business out of existence will not succeed, and though they come to nothing, such efforts at least convey the idea of combinations of captal and enterprise that this is a dangerous town in which to do a successful business.

(Sgd.) Edward Gurney, President.

Extract from President's (Mr. Elias Rogers) Annual Address, 1898.

Municipal Taxation.

The question of Municipal Taxation was considered by a special Committee and by the Council of the Board, and a resolution adopted favouring the abolition of personalty taxation. A city prospers in proportion as it draws to itself business from the outside world. It is therefore important that the conditions should be made as favourable as possible to the manufacturer and distributor.

By taxing personalty we are placing a burden upon that class of the community which it is to the city's interest to favour, and putting them at a disadvantage with their competitors in other cities where more favourable conditions exist in this regard. I am glad to know that the Assessment Commissioner now takes this view of the question, and proposes to act upon it as far as the present law will allow.

The City Council have succeeded, by strict economy, in again reducing the debt and taxation. If the same careful policy is followed for a few years longer, the tax burden per head of population will be materially lessened. Exemption of manufacturing plant and machinery with low water rates, are of importance in attracting new industries to Toronto, but even more valuable is the certainty that low taxation in the near future is absurd.

(Sgd.) Elias Rogers, President.

Extract from Inaugural Address—Mr. A. E. Kemp, 1899.

The question of taxation on personalty as it exists at the present time, as compared with the way it is regulated in Montreal and other places is a most serious drawback. By way of illustration I think all are prepared to admit that if the money which is on deposit in our loan societies and banks were invested in mercantile and industrial enterprises, it would be better for the prosperity of the city. At the present time very little of the money is subject to taxation. Assuming that the average rate on the money on deposit is 3 per cent. per annum ; if the owners coudl be found and it could be taxed, I assume that there would be only one crop of taxes, as it would disappear, for it would take more than one half of the annual interest to pay the taxes according to our present rate.

If such an agitation were advocated as might result in taxing this money, people would rise up in rebellion against it, yet a man who dares to take the money he has on deposit and invest it in either a manufacturing or mercantile enterprise, where his capital is visible to the naked eye, as represented by merchandise which he has on hand, then it is subject to taxation to the full value of the money so invested, while it is practically exempt from taxation so long as it remains in the savings bank. If the money invested to help maintain a city by manufacturers and wholesale merchants can be assessed 57 per cent. of the earning power of money in a savings bank, we may ask is the thing reasonable? Can it lead to success? Does it make taxes lighter to the average taxpayer? Is it likely to encourage the building up of large enterprises in our midst?

Our taxes should be levied on the value of the real estate, and if the personalty tax is to be insisted upon, it should be upon the rental value of the premises occupied.

The tendency of capitalists to confine their investments to purely financial institutions, where capital is protected by special legislation, instead of investing in productive enterprises, may continue as long as the present conditions exist.

The "Assessment Act" as applied breeds corruption, perjury and disrespect for law, upon every possible ground of justice, equality and morality; the taxation of personal property in this manner stands condemned and should be revised.

The policy which is being pursued by our Assessment Commissioner at the present time, in respect to exemptions from taxation for a period of ten years, and other inducements to manufacturers who are willing to locate here, is a wise one, and I do not consider it prejudicial to the interests of those who are already here, although it is an extremity which ought to be unnecessary, yet under the existing circumstances, if we expect to attract large enterprises it is the only policy to pursue. Within the ten years during the time the exemptions last, it is to be hoped we can so adjust our affairs that this policy then will not be necessary.

We can make Toronto a desirable place for manufacturers and merchants to locate in without special inducements of this kind.

What we require is favourable transportation charges; as we develop the conditions will become more favourable if we watch and take advantage of all our opportunities.

(Sgd.) A. E. Kemp.

Extract from President's (Mr. A. E. Kemp) Annual Address, 1899

Municipal Taxation.

The Council for a number of years past has appointed a Committee which has given its attention to the question of municipal taxation. I have nothing to add to the views which it has given expression to from time to time, and which have been endorsed by the Council; it might be well to repeat them here:

1st. That all taxes on business personalty be abandoned.

2nd. That a business tax on rental value be substituted for personalty on business capital.

Under existing conditions, in almost every instance where important manufacturing enterprises are attracted to the city it is necessary for the city to exercise its powers in regard to partial or total exemption. If capital is to be induced for investment into mercantile projects, or manufacturing industries, there should be some alteration in the law whereby it is not subject to practical confiscation. There is no more reason why merchandise brought to this city for distribution for outlying points should be taxed while it remains in warehouse here, than that the gold and silver lying in the vaults of our banks should be. Grain, cereals, flour, live or dead stock warehoused here are exempt from taxation. Therefore it will be seen that under our Assessment Law, the principle, so far as these articles are concerned is conceded.

If we want to make this city the manufacturing and distributing centre which we desire, then some better law should be sought for by which capital would more readily seek investment in productive enterprises. I desire to point out that this city is labouring under a great disadvantage, as compared with Montreal, in respect to the way capital is subject to taxation to the full extent invested in merchandise, or in other words, upon personalty as against taxation on rental value, as it exists there. I quite agree with the policy adopted by the city of holding out special inducements for the location here of manufacturing industries, but the law should be such that these special inducements would not be necessary; this practice illustrates the weakness of the law.

At the last Session of the Ontario Legislature there were at least three Bills introduced in regard to the Assessment Act which were of far reaching importance. Representations were made before the Municipal Committee of the Legislature by deputations from this Board, urging that no alteration should be made in the existing Act until all the questions of the Act as it now stands should have been thoroughly considered. The

objectional qualities of the amendments in each case were pointed out, especially that in regard to taxing merchants engaged in retail trade on the amount of their annual turnover in business; this and another Bill were withdrawn.

An amendment to the Act became law in reference to taxation of financial corporations; its chief feature in application appears to be that the Government now takes or its own use, by a direct tax, the greater portion of the amounts which were formerly levied annually by municipalities.

(Sgd.) A. E. Kemp, President.

No. 4.

(*Referred to* p. 63.)

METHOD OF ASCERTAINING THE ANNUAL VALUE OF PROPERTY IN GLASGOW FOR ASSESSMENT.

Letter from the Assessor, Glasgow.

"The population of the City of Glasgow is 747,222. The area of the city is 12,888 acres. The gross rental or annual value for the current year is 4,791,295 pounds.

The valuation roll is made up annually, a door-to-door survey is made of all premises in the city immediately after Whitsunday term, in order to ascertain the names of all owners and occupiers of property, and in all cases of let premises, the rent payable by the tenant or occupier.

Simultaneously with the survey of the city in each year schedules are issued to all owners, in which they are required to give the names of their tenants and the amount of rent payable by each.

At the close of the survey these returned schedules are compared with the information obtained on the survey and where any discrepancy appears between the survey and return it is cleared up by enquiry or re-survey of the premises.

Premises in the occupation of the owner are valued by the Assessor, and the method usually adopted by me for arriving at the annual value of such premises is to measure the premises and compare the same with similar let premises in the locality; where there are no similar let premises in the neighbourhood to compare with, I endeavour to get the cost of the ground and buildings, and in the case of mills and public works the cost of the fixed machinery, and apply a percentage to the cost, which varies from 5 per cent. to 7½ per cent. according to the nature of the building—the chief aim and object of the percentage rate being to find the rent at which the premises in their actual state might be reasonably expected to let from year to year.

After the Valuation Roll has been prepared, every owner and occupier appearing on the roll is served with a notice containing a copy of the entry applicable to the premises so owned or occupied by him. Appeals against the valuation may be adjusted by the Assessor up to the 8th of September in each year; appeals not then disposed of go to the Burgh Valuation Appeal Committee, composed of fifteen members of the Town Council, who, after hearing all parties concerned, either sustain or modify the Assessor's valuation. Should the Assessor or the appellant be dissatisfied with the decision of the Appeal Committee a further appeal can be taken to two judges of the Court of Session, appointed under the Valuation Act, and whose decision is final. All lands and heritages in Glasgow are assessed for *police and municipal purposes on the gross annual value* as appearing in the Valuation Roll with the following exceptions, viz.: arable, meadow, or pasture ground, woodland, market, garden, or nursery ground, the line of any canal, or the line of any railway and underground gas or water pipes, which are rated on one-fourth of the annual value entered in the Valuation Roll.

The poor and school rates are charged under deduction of 20 per cent. on rentals appearing in the Valuation Roll.

The rental or annual value as appearing in the Valuation Roll is the basis and the only basis for local taxation.

Jas. Henry,
City Chambers, Glasgow, April, 1900. Assessor."

STATEMENT SHOWING THE POLICE, MUNICIPAL, POOR, AND SCHOOL RATES OF ASSESSMENT LEVIED IN THE CITY OF GLASGOW FOR YEAR 1899-1900.

Purpose of Rate.	Current Rate. On Occupier.	Current Rate. On Owner.	Remarks.
	D.	D.	
Police	1·0 1/8	. .	Half rate on rents under £10.
Sanitary	1/8	....	
Statute labour	1 1/8	....	
Parks and galleries	3 3/4	....	
Juvenile delinquency	1/8	....	
City improvements	1/4	1/4	
Public health	2 3/8	2 3/8	
Sewage	1/8	1/8	
Municipal buildings	1/8	1/8	
Registration of births, &c	1/8	1/8	
Registration of voters	3/8	3/8	
Valuation of lands	3/8	3/8	
Prison payment	1/8	1/8	
Clyde embankments	1/8	1/8	
General purposes	1/8	1/8	
Contagious diseases (animals)	1/8	1/8	
Lunacy	1 1/4	1 1/4	
Roads and bridges, maintenance	2 3/8	2 3/8	
Do. road debt	....	1/8	
Cumulo Rate—*On rents £10 and upwards*	2·3 1/4	8 1/8	
Cumulo Rate—*On rents under £10.*	1·8 7/8	8 1/8	
Water, domestic rate	5	....	On dwelling-house rentals only.
Do. public rate	....	1	On all rentals.
Poor rate	5 1/4	5 3/8	Rates charged under deduction of 20% on rental appearing in Valuation Roll.
School rate	5 1/4	5 1/4	

NOTE.—Excepting poor and school rates, all the above are charged on rentals appearing in Valuation Roll.

CITY CHAMBERS,
GLASGOW, *March* 1900.

JAMES HENRY,
City Assessor.

No. 5.

(*Referred to* p. 69.)

REPORT OF THE ASSESSMENT COMMISSIONER TO THE CITY COUNCIL, TORONTO, IN 1896.

TORONTO, January 29th, 1896.

The Chairman of the Executive Committee.

DEAR SIR,

I beg to report for the consideration of your committee and council the following resolution which was adopted by the City Council on the 24th inst.

"Resolved that the Assessment Commissioner be and is hereby requested to consider the advisability of reporting to this Council through the Executive Committee a more equitable method of assessing the personal property of the proprietors of departmental stores, mercantile stocks and personal property generally and the necessary legislation required to effect such reform in making said assessments."

Mr. Maughan reported as follows:—

"The above resolution refers entirely to personal property assessments, is one of great moment and should be approached in the most careful manner. Any change in the present Act it may be presumed will be with a view to an increased assessment; the question will then arise, can our merchants under the existing depression bear further taxation?

"Special mention is made as to the assessment of departmental stores. There is no doubt they should certainly pay on every dollar of assessable property. As to the method

of increasing the assessment on such establishments if it should be deemed desirable to do so, perhaps a well digested scheme of a license on a graduated scale on each department would be the most effective, that is, increasing the tax on each separate business carried on in the same building.

"Another suggestion would be to assess departmental stores on a percentage on the gross intake say for instance, the one half of one per cent. the gross intaking being $3,000,000, the tax would be $15,000. Legislation would be required to make either methods operative. The Act regarding the assessment of mercantile stocks and personal property generally could be allowed to stand as at present.

"Owing to the importance of the above resolution I have thought it well to place before your Committee my report of February last which explained the nature of personal property, how assessable and its working. I have also consulted and quoted the best authorities on assessment.

"Copy of Report to Executive Committee, February, 1895, re Personal Property.

"Personal Property" as described under the Assessment Act shall include all goods, chattels, interest or mortgages, dividends from bank stock, dividends on shares or stocks of other incorporated Companies, money, notes, accounts and debts at their actual value, income and all other property except land and real estate.

Sec. 26, sub. sec. 1 "Real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor. Sub. sec. 21. sec. 7 exempts "so much of the personal property of any person as is equal to the just debts owed by him on account of such property."

"In assessing personal property your Committee will see that the Legislature contemplated assessing only the personal property actually owned by the party assessed.

"The question of the best and most equitable method of assessing this class of property has been thoroughly discussed before the Legislature at different times and in Petitions which I have to that body, from conventions seeking amendments to the Assessment Act I do not find an instance where authority is asked to assess personal property wheresoever found regardless of liability thereon. The present section has been in force for the past twenty-four years and while objections have been raised principally on the ground that its enforcement acts unfairly against those who make an honest return, and that much of it escapes taxation, yet the remedies proposed are to abolish the assessment of personalty and apply a business tax or to substitute income.

"It is most perplexing to say what the effect might be on the welfare of Toronto if the Legislature gave permission to municipalities to assess personal property in the manner contemplated. I believe it is conceded that our wholesale trades to-day are not doing the business nor enjoying the prosperity of former years, and an assessment made in accordance with the above proposition, would be a most serious matter. Take for instance a warehouse containing personal property to the extent of say $600,000 (not an over estimate) the taxes alone, not including the local rates and taxes on the real property would amount to at 17 mills on the dollar no less a sum than $10,200. Then again there are many establishments in our city have personal property ranging from $5,000 to $50,000 which means a tax of from $85.00 to $850 00 each who would find it next to impossible to carry on their business profitably with such a serious tax, and if such a tax were levied the inevitable result would be increased cost of goods to the purchaser.

"There is no doubt that with such a change in the Act the assessment of personalty would be largely increased, but of its wisdom I have many doubts, indeed some of the best writers on municipal taxation are in favour of abolishing this item of taxation entirely and substituting a business tax.

"Any change in the Act which will help our system of assessment will be gladly welcomed. One that has suggested itself for many years is that power be given the assessor to secure from the party assessable a statement under oath of the total amount of personal property and income liable to taxation. I may say without this power in a city like Toronto there are many who now and will escape taxation.

"Your committee will readily see that various kinds of property may be differently assessed, for instance, it is generally admitted that real property is the basis of assessment being fixed and visible, while personal property is easily concealed and easily removed and hence a very uncertain article of assessment even under the present law.

"I may add that many persons are of opinion that real property should be assessed in the same manner as personal property, that is, assess the person owning the property for that value he has in it and the mortgage for the amount of the mortgage he holds.

"In conclusion, I would say that under all the circumstances, and having in view the depression in both mercantile and real estate markets, I am of opinion that it would be unwise to apply for the legislation indicated.

"It will be seen from my former report as above, that the only change suggested which might assist the department in obtaining better returns would be that power be given the assessor to secure from the party assessable a statement under oath, but even this power is adversely reported upon by the Illinois Revenue Commission. They state, "We believe such requirement to be debauching to the conscience and subversive of public morals, school for perjury." I believe our Assessment Act, as it reads to-day, is on the whole a fair and equitable one. Perfect equality in the assessment of taxes (says Cooley on taxation, page 167) is unattainable. Approximation to it is all that can be had. Under any system of taxation, however wisely and carefully framed, a disproportionate share of the public burdens will be thrown on certain kinds of property because they are visible and tangible, while others are of a nature to elude vigilance." Then again on page 241 the same authority says, "An exact equalization of the burdens of taxation is unattainable and Utopian."

"Most writers agree as to this. The only thing then left is the carrying out of the law with the greatest possible vigilance. The principle of taxation must, however, be observed. To again quote from Cooley on taxation, "Taxation may not be universal but it must be general and uniform. The Legislature, in the plentitude of the taxing power, cannot have constitutional authority to exact from one citizen or even from one county the entire revenue for the whole commonwealth. Such an exaction, by whatsoever name the Legislature might choose to call it, would not be a tax, but would be undoubtedly the taking of private property for public use, and which could not be done constitutionally without the consent of the owner or owners, or without retribution of the value in money." Prof. R. T. Ely's book on "Taxation in American States and Cities" is well worthy of perusal, and just now is valuable as showing the experiences of different cities in the assessment of personal property. In the State of Ohio blanks are made out of every conceivable kind of personal property; each question asked must be answered under oath and under pain of heavy penalty. These lists are everything that could be desired, and in inquisitorial nature go far ahead of anything of the kind known —the law is actually enforced. The personal property shall be assessed at its usual selling price. The result is answered by the Governor of the State in his "Special Message," dated April, 1887. "Personal property is valued all the way from full value down to nothing; in fact, the great majority of the personal property of the State is not returned, but entirely and fraudulently withheld from taxation. The fault is chiefly with the people who lift their property for taxation. The idea seems largely to prevail that there is injustice and inequality in taxation and that there is no harm in cheating the State, although to do so a false return must be made and perjury committed. The harm they do is not measured by the amount of money of which they deprive the State; their example is bad and fraught with evil to the whole community. The amount of personalty in this State in 1883 was $542,207,121 and in 1885, $509,913,986. These figures show that the chief trouble is in getting at the personal property.

"In the State of Georgia the same law prevails, the results the same. The same may be said of Wisconsin and West Virginia.

"In the State of New York, where full returns are most easily accessible, the decrease in personal property from 1878 to 1880 was in round figures $30,000,000, and although an increase was shown in 1881 of $29,000,000, yet in 1892 this was more than counter-balanced by a decreased valuation of nearly $36,000,000.

"Governor Hill in his annual message, 1886, says, "It is evident that the personal property of the State does not pay its just proportion of taxes. The assessed value of personalty in 1884 was $345,418,361, and in 1885 $332,383,239, or a decrease of over $13,000,000. These facts speak for themselves.

"Returning to our own municipalities. Some years ago a business tax was advocated and to that end a special committee of the City Council was formed, Alderman Hallam being the Chairman. Legislation was then obtained (1891) but no further action

was taken. In the valuable return, as submitted by the Chairman, it was shown that the wholesale houses between West Market Street and York Street and South of King Street the business tax would amount to $17,411, as against $43,764 taxes on actual personal property assessed; that the manufacturer would pay $4,955 as against $13,413, and further, that the difference would be loaded on the retail stores, which were less wealthy and less able to pay. In individual cases it was shown that the wholesaler, under a business tax as fixed by statute, would pay about one-fifth of the tax as then and now imposed.

"Business should, as a rule, be left as free in its movements as possible, and in the assessment of personal property, where no deduction is made on account of debts, such taxation 'must work great hardship'

"The personal property (including income) of the city of Toronto, as returned by the Assessor for the year 1896, is $12,861,919. To show the concentration of business in this city, I would point out that in sixteen assessable divisions one division in Ward No. 3, the smallest in area, returned an assessment of $8,976,773.

"In 1891 the city of Buffalo returned its assessed personal property at $11,775,880, and the population 275,000.

"We have written several American cities and have received replies from Philadelphia, Detroit, Buffalo, Rochester and Chicago, in none of which does there appear to be a special tax on departmental stores.

"After making considerable inquiries and having endeavoured to show the difficulty of making an equal personal assessment, I may add before concluding that I have simply indicated what I think would be the best method of effecting an increase in the assessment of departmental stores, without taking into consideration the good or harm these stores are doing. Your obedient servant,

"N. Maughan."

No. 5 (Continued).

FURTHER STATEMENT HANDED IN BY THE SECRETARY OF THE RETAIL DEALERS' ASSOCIATION.

The Effect the Department Store System Has Upon the Retail Trade and Upon Retail Business Property.

The aggregation of capital controlled by large corporations and invested in all classes of merchandise under one roof, which are commonly known as "Department Stores," absorbs the trade that has been done in various districts of the city to a centre, and it destroys the livelihood of the merchants in every district where they have established their businesses; consequently these large stores cause the retail merchants to carry smaller stocks than formerly, which is an inconvenience to the shopping public in those districts, and it not only destroys the earning power of the business real estate, but also that of the merchant who contributes largely towards the maintenance of our public schools, charitable institutions and public enterprises.

When the earning power of real estate is effected, it necessarily shrinks the value of it; this shrinkage in value reduces the gross amount of taxes collected, and the result is a higher tax rate all over the community. The greater the business accumulates under the roofs of these department stores, and the more land they absorb, or the higher they build their buildings, the less valuable general retail business property becomes, and the less the general retail merchant receives for his labour. The rents of business property are thus reduced, the earning power of the merchant is reduced, and the receipts of the city are also reduced, and consequently a higher rate of taxation is demanded, and the retail merchants who pay 45 per cent. of the taxes of the city now have less to pay their taxes with.

Another unfair feature of this centralization of capital is that, while the land on which these enormous businesses are conducted is necessarily made more valuable, owing to the great congestion of trade that is centred there, the land occupied by other firms adjoining these department stores are assessed in many cases for far more per foot, although the real value of the property is reduced, because the trade formerly done is injured by these large concerns. This new and unfair development in trade, therefore, changes the entire conditions which formerly surrounded the retail trade, and upon which our city was built, and which existed before these new ventures came into the community. They have centralized trade and destroyed the land value of business property all over the principal business streets of Toronto and in all the surrounding towns. They also increase the insurance rates in the vicinity by erecting such enormous places, and by having so much inflammable material gathered together without having walls or iron doors between each department. This is but a brief outline of the direct effect these places have upon business property and upon which abundance of evidence can be produced to bear out this statement.

The reduction in the value of the general retail business property, both of Toronto and other cities in the Dominion, is only one of the evil features of the department store system. Those large concerns, which state that they borrow most of their capital from the banks, recognize that one of the elements of human nature is to search for supposed bargains, and they conduct their business almost wholly upon the plan of advertising goods at ficticious prices, and then state that they have been reduced to a very much lower price so as to attract the crowd. Very few people understand the quality or value of general merchandise, excepting those who have learned their business, and the merchants who understand their business and would not misrepresent their wares are forced to have the price of their honest made goods placed in competition with poor quality wares, represented as the best quality in the department store advertisements. Then again, the first step a department store takes is to absorb one line of trade, and having taken possession of the dry goods trade of Toronto, one of the most profitable lines of trade in the city, then they cluster around it well-known lines of goods belonging to other trades, and having a core or sure source of profit to work from in the dry goods department, where they have destroyed all chance of competition, they advertise and sell in the most reckless fashion all the other various lines of goods, some days at prices higher than their legitimate values and other days a long way below the actual cost of production. This system then, instead of sustaining those grand old principles of business uprightness and integrity that are the bulwarks of the British Nation and upon which our forefathers have prided themselves, has demoralized the business of buying and selling at retail into games of chance and lottery enterprises. In fact if you study the advertisements of these concerns and read how cunningly they present their wares to the public, and how they constantly state that they are selling below cost or at special bargains at special hours, and how much cheaper they are selling than the regular dealer; whereas, in nearly every line they carry it has been demonstrated and proved that their advertisements are simply falsehoods, and if they were not capitalized for so much wealth, and the same transactions were conducted by transient auctioneers, the police would soon force them to adopt fair methods and have them imprisoned for the frauds they commit. One case, which is probably familiar to you, was that of a set of silverware sold by the T. Eaton Co. for genuine Quadruple Plate, and which was only the cheapest and poorest plate, and for which they were found guilty in every court before which the case was presented.

Then if we look into the workrooms of these concerns we will find that they are not satisfied with destroying the value of their speculative methods, of staple lines of goods, but they also crush down, almost to starvation wages young girls and women by giving them as low as forty cents a day making shirts as well as other lines upon which evidence can be produced before you if necessary.

These department stores must not be confused with the ordinary trust, they are a seperate combination entirely by themselves. Trusts usually control the manufacture of one special article, they do not manufacture stove pipes and sell them at half cost so as to obtain your trade and make an exorbitant profit out of you on collars and cuffs. Trusts don't do that, department stores do, the one usually sells to persons who understands their business that is to merchants in the trade, a department store deals with the uneducated public, and they destroy the value of well known manufactured articles in one

line so as to make a profit on others, so that in the case of department stores special treatment is necessary and a special remedy in the shape of a special tax must be applied to protect the honest merchant in the business he has learned.

It costs our City of Toronto $1740 to educate every boy and girl in it, we want these boys to become educated so that they can be of service to our Province, to apply themselves to the businesses they learn, to become skilled and experienced business men, how can this be accomplished, and of what use is it for boys to devote years of their time and dollars of their own and their parents' money learning a business, say that of druggist, jeweller, a grocer, a butcher, a baker or any other line of trade, if these monstrous and gluttonous corporations are to be allowed to concentrate capital and destroy the value of all and every business, so as to capture and take possession of them, and stop the natural course of trade, for their personal and selfish ends, and having once captured the trade they can employ men at their own rates and demand whatever they may ask for their goods from the helpless public.

The methods of department stores do not inspire men engaged in their employ, to those high ideals of business life, that have made nations great, but they deteriorate, crush out and stifle all these ambitions of honour, integrity, and independence, that must be preserved in our actual daily lives, and practised every day, before professing christian nations can make any advancement.

The Commissioners appointed to present a report on "Department Stores" to the Senate of the General Assembly of the State of Illinois after hearing much evidence reported as follows :

1st. That the claims of the department stores to save money to the purchaser is not sustained by the facts.

2nd. That the extensive employment of women and children is not for the best interests of the community.

3rd. That the massing together of so many classes of merchandise, of varied characters, in such immense quantities must be comdemned from every point of view.

In the words of an eminent jurist and writer, who appeared before your Committee as a witness. "If the great aim of civilization is to produce a certain amount of material comfort, that is, the things that conduce to merely material comfort, such articles as boots, shoes, clothing and the like at the least possible cost, then the present movement (referring to department stores) may be said to be a success; but if the aim of civilization is to produce a happy and contented people, then it is a great failure, for with all the advantage which has been gained for the material comfort of the labouring class, there has been a constant increase of discontent, of unhappiness, and a constant increase of crime."

"It is the opinion of your Committee, most forcibly illustrated by the evidence, that in the course of a few years these large department stores, if allowed to conduct business without legislature restriction, in the manner in which they are now, will have increased to such an enormous extent in capital, volume of business and wealth, that not only will they hold in their grasp and finally crush out the smaller dealers, but will also have at their mercy the general public and when such power is placed in the hands of a few it can be used with terrible effect."

I submit then that it is in the best and highest interests of the State both morally and physically that the opportunities for the individual development of many be not destroyed by the money power of a few, that man stands above money or wealth, and that it is in the best interests of a nation to give all an opportunity of the dictates of cunning and wealth, operated in the hands of monopolists and to therefore free the congested channels of trade, and let every business man enjoy the natural opportunity that arises out of the business he has learned and which have been congested by the modern department store, that a special license or tax be applied to these places as set forth in the accompanying memorandum.

The Retail Merchants' Association of Canada.

(Sgd) E. M. Trowern,
Secretary.

How the tax or License will be Applied to Department Stores.

For the reasons set forth in the accompanying article as stated before your Commission and also from the evidence given by the officers of our Association and witnesses who appeared before you "The Retail Merchants' Association of Canada" submit that departmental stores should be licensed or taxed in addition to the ordinary personalty tax that is now applied or would be applied under any system of taxation, and they suggest that the following system be recommended as is now adopted in Prussia. The object of the Bill is to prevent as far as possible large capitalists from monoplizing and destroying the value of all lines of merchandise sold by retail and as it is an advantage to the public and the merchant to handle kindred lines of goods which naturally go well together and which it is customary to group it is therefore provided that the retail trade should be classified into the following groups :

The classification is as follows :

1st. Groceries, table delicacies, etc., table waters, etc., tobaccos, cigars, cigarettes, smoking utensils, pharmaceutical goods, drugs, perfumeries, etc.

2nd. Yarns, twines, thread, passementerie goods, under-clothing, stockings and other knit goods, dry goods, clothing, cloaks, furs, beds and bedding, furniture, curtains, carpets, etc.

3rd. House and kitchen utensils, garden tools, stoves, glassware, porcelain, stoneware, furniture, curtains, carpets, etc.

4th. Silversmiths' and goldsmiths' goods, jewellery, art goods, paper, articles from paper, books, music, arms, cycles, sporting and hunting utensils, sewing machines, toys, optical, physical medical, and musical instruments and apparatus, etc.

Any merchant is permitted to sell the articles contained in any of the above individual groups without having to pay any special tax or license but when any person or corporation engages in selling goods which cover two or more of the groups, providing that the sales amount to more than $100,000.00 per annum the following special graduated tax or license is imposed.

Between	$112,500.00	and	$125,000.00	$1,375.00
"	125,000 00	"	137,500.00	1,875.00
"	137,500 00	"	150,000.00	2,125.00
"	150,000 00	"	162,500.00	2,375 00
"	162 500 00	"	175,000.00	2,625 00
"	175 000.00	"	187,500.00	2,875 00
"	187,500.00	"	200,000 00	3,125.00
"	200,000.00	"	212,500 00	3,375 00
"	212 500 00	"	225,000 00	3,750.00
"	225,000.00	"	237,500.00	4,125 00
"	237,500 00	"	250,000.00	4,500.00
"	250 000.00	"	275 000 00	5,000.00
"	275,000.00	"	300,000.00	5,500.00

and for every additional $25,000.00 of sales there is to be paid $500.00 additional license or tax.

Branch department stores situated in any city or town must pay upon the sales of every branch as though they were made at the main store.

When any department store is divided into several independent shops under the same management and the circumstances show that it is done for the purpose of evading the law the collection of the license or tax will operate the same as though all the shops were under one roof

The Retail Merchants' Association of Canada.

(Sgd.) E. M. Trowern,
Secretary.

No. 6.

(*Referred to* p. 73)

BILL INTRODUCED INTO THE LEGISLATURE AT THE INSTANCE OF THE RETAIL DEALERS' ASSOCIATION.

No. 180] BILL. [1900.

An Act to Amend the Assessment Act.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

By-laws for imposing tax on gross proceeds of sales in departmental stores.

1. The council of any city or town may, by by-law, provide for imposing and levying upon and collecting from merchants, firms and corporations engaged in selling at retail in open stores, under one roof, goods of several different kinds, or who deliver such goods to consumers by mail, railroad or other public method of transportation, a tax based upon the gross proceeds of the sales made by such merchant, firm or corporation during the year preceding that in which the tax is to be collected, and such tax shall be graduated and progressive, and shall not exceed 2 per cent. of the gross proceeds of such sales according to a schedule set forth in the by-law.

Tax on gross proceeds to be in addition to personalty tax.

2. Where a by-law has been passed in pursuance of section 1 of this Act, such tax shall be in addition to any tax or personalty such merchant, firm or corporation would pay if this section had not been passed, and in estimating the amount upon which the said tax is based no reduction shall be made in respect to any debt owing upon goods, wares or merchandise, the proceeds of which are liable to said tax.

Act not to apply to certain classes of business.

3. The two preceding sections shall not apply to auctioneers, coal dealers, dealers in any agricultural products in Canada, or to any merchant, firm or corporation whose gross proceeds of sales in such preceding year do not exceed $50,000.

Rev. Stat. c. 224, s. 47 amended.

Statement to be furnished to assessors.

4. Section 47 of the said Act is hereby amended by inserting after the word "roll" in the ninth line the following words: "and all particulars required by the assessor to enable him to ascertain the gross proceeds of the retail sales of the business required for the purpose of the tax imposed in section 36*a* and such particulars shall be verified by statutory declaration of the merchant or managing officer of the corporation making it."

And by inserting after the word "statement" in the last line the words "to be verified in the case of persons, firms and corporations subject to a tax imposed under section 36*a* as aforesaid."

Penalty for non delivery of statement or falsifying same.

5 The fine for failing to deliver the written statement or written statement and statutory declaration when required to do so under section 47 of *The Assessment Act* shall be not less than $100 or more than $500 for each offence thereunder, and under section 48 of the said Act shall be $100 and for knowingly stating anything falsely in any such statement shall be not less than $50 nor more than $200 for each offence thereunder.

No 7.

(*Referred to* p. 107.)

STATEMENT from the Assessment Commissioner, Toronto, shewing change in taxes of merchants in the City of Toronto by the adoption of a tax on rental value instead of on personal property.

Name.	Assessed real property.	Business tax at 7½ per cent.	Assessed personal property.	Personalty taxes at 19½ mills on $
Wholesale Merchants.	$	$ c.	$	$ c.
Donald Mackay	40,500	212 62	175,000	3,412 50
Wyld, Darling Co., Limited	67,000	351 75	130,000	2,535 00
W. R. Brock Co., Limited	65,600	344 40	130,000	2,535 00
Rice Lewis Sons & Co	142,459	747 90	100,000	1,950 00
John Lyman	16,800	88 20	55,000	1,072 50
M. C. & R. Y. Ellis	43,625	229 03	50,000	975 00
Alex. Buntin	30,500	160 12	50,000	975 00
The Canada Rubber Co	34,000	178 50	50,000	975 00
The Merchants' Dyeing Co	28,675	150 54	50,000	975 00
The Publishers Syndicate	20,850	109 46	42,000	819 00
Percy Leadley	16,200	85 05	40,000	780 00
Nerlich & Co	16,400	86 10	40,000	780 00
Jas. & Jno. G. Kent	22,142	116 24	40,000	780 00
Henry S. Howland	16,400	86 10	40,000	780 00
Gutta Percha Rubber Co	24,000	126 00	40,000	780 00
W. J. Gage	28,900	151 72	40,000	780 00
Samuel Benjamin Co	30,500	160 12	40,000	780 00
The Davidson Hay Co	39,000	204 75	30,000	585 00
Brown Bros	51,660	271 21	30,000	585 00
Gillespie & Ansley	35,400	185 85	30,000	585 00
A. A. Allan & Co	25,500	133 87	25,000	487 50
Wm. Goulding	19,850	104 21	25,000	487 50
W. E Chalcraft	28,750	150 93	25,000	487 50
Nisbet & Auld	15,200	79 80	15,000	292 50
W. Jessop Sons & Co	17,800	93 45	10,000	195 00
Flett & Lowndes	29,550	155 13	8,000	156 00
S. F. McKinnon	39,900	209 47	50,000	975 00
George Morang	6,013	31 56	10,000	195 00
	953,174	5,004 08	1,370,000	26,715 00
Retail Merchants.				
Crawford Bros	7,000	36 75	3,000	58 50
Adams Furniture Co	33,458	175 65	20,000	390 00
J. J. Follett	15,625	82 03	3,000	58 50
J. W. T. Fairweather	31,166	163 62	10,000	195 00
Upper Canada Bible Society	25,300	132 82	5,000	97 50
Upper Canada Tract Society	25,300	132 82	10,000	195 00
H. Blachford	28,250	148 31	8,000	156 00
Ryrie Bros	70,708	371 21	20,000	390 00
W. D. Dineen Co., Limited	62,000	325 50	15,000	292 50
B. Kent & Sons	40,600	213 15	11,000	214 50
A. Kent & Sons	24,800	130 20	20,000	390 00
J. Wanless & Sons	41,150	216 03	15,000	292 50
R. Simpson Co., Limited	513,875	2,697 83	130,000	2,535 00
Knox & Co	66,741	350 39	6,000	117 00
Kingsley & Co	30,900	162 22	4,500	87 75
T. Eaton Co., Limited, Yonge street " James street " Queen street & S. S. " Albert street	522,882	3,022 57	450,000	8,775 00
" N. S. Albert & S. S. Louisa St.	52,847	.....	.....	.....
	1,592,602	8,361 10	730,500	14,244 75

No. 7.—*Continued.*

RETAIL STORE PROPERTY ONLY—ASSESSMENT FOR 1901.

Locality.	Distance (both sides.)	No. of Stores.	No. of Stores Assessed on Personalty.	Total Assessed Personalty.	Personalty Taxes at 19½ Mills on $.	Value of Real Property.	Business Tax at 7½ per cent.
King Street from George Street to Berkley Street	3,180 ft	103	21	12,300	239.85	201,824	1,059.57
Queen Street from Spadina Avenue to Bathurst Street	3,960 ft	185	84	64,500	1,257.75	597,615	3,137.47
Queen Street from Bathurst Street to Gladstone Avenue	12,240 ft	324	81	32,200	627.90	706,470	3,708.96
Queen Street from Sherbourne Street to Parliament Street	2,600 ft	89	38	18,600	362.70	261,945	1,375.21
Yonge Street from King Street to Shuter Street	3,432 ft	119	91	974,400	19,000.80	4,021,467	21,112.70
Yonge Street from Shuter Street to Gerrard Street	3,855 ft	187	152	102.000	1,989.00	1,098,020	5,764.60

No. 8.

(*Referred to* p. 108.)

STATEMENT from the Assessment Commissioner, Hamilton, showing changes in taxes o merchants in the City of Hamilton by the adoption ot a tax on rental value instead of on personal property.

(Up to the time of printing this Statement had not been furnished. It has since been supplied and is to be found on p. 605.

No. 9.

(*Referred to* p. 116.)

The judgment referred to by Mr. Allan, *supra* at p. 116, is that of Lord Mansfield in Rex. v. Inhabitants of Ringwood, 1 Cowp. 326, as follows :—

LORD MANSFIELD :—"In general I believe neither here nor in any other part of the "kingdom is personal property taxed to the poor. . . . I think the justices would not "have done very wrong if they had acquiesced in the practice which has obtained ever "since the stat. 43 Eliz. of not rating this species of property. . . . The justices of "sessions should have amended the rate if they thought this property rateable ; and then "on attempting to do it they would have discovered the wisdom of conforming to the "practice which they expressly state in the case, of not rating it. If they had tried to "have amended it, how would they have rated this stock? Are the hops and the malt "and the boiler to be rated at so much for each? Or is the trader to be rated for the "gross sum which his whole stock would sell for? If the justices had considered they "would have found out the sense of not rating it at all, especially when it appears that "mankind has, as it were, with one universal consent, refrained from rating it ; the diffi- "culties attending it are too great, and so the justices would have found them. As to "the authorities which have been cited, they are very loose indeed, and even if they "were less so one would not pay them very much deference, especially as they differ ; and the "rules they lay down have not been carried into execution for upwards of a hundred years. "They talk of *visible* property. What is *visible* property? I confess I do not know "what is meant by visible property. If every visible thing should be determined to "to come under that description, in that case a lease for years, a watch in a man's "pocket, would be rateable. Visible property is something local in the place where a

"man inhabits. But that does not decide what a man's personal property is. Consider "how many tradesmen depend upon *ostensible* property only." The decision of the judges in 1706, that the stock of an artificer is rateable, was, Lord Mansfield added, extra-judicial. "But," he proceeds, "supposing it were not, what do they mean by the *visible* "stock of an artificer? Some artificers have a considerable stock-in-trade; some have "only a little; others none at all. Shall the tools of a carpenter be called his stock-in-"trade and as such be rated? A tailor has no stock-in-trade; a butcher has none; a "shoemaker has a great deal. Shall the tailor, whose profit is considerably greater than "that of the shoemaker, be untaxed, and the shoemaker taxed?"

No. 10.

(*Referred to* p. 141.)

The judgment of Judge Macdougall in re Assessment of the Toronto Ry. Co., referred to, was not handed in as a report of it is to be found in 33 Canada Law Journal, p. 75.

No. 11.

(*Referred to* p. 161.)

MEMORANDUM from Mr. E. Martin, Q.C., respecting the HAMILTON GAS COMPANY.

The capital of the Company is $255,000.00

It is assessed (1900) for Real Estate and Mains as follows:

Real Estate Proper ..	$137,680 00	Taxes thereon	$2,759.04
" Mains	60,000.00	" "	1,200.00
	$197,680 00		$3,959.04

See judgment of Snider, County Judge, as to assessment of Mains as real estate, Hamilton Gas Co vs. City of Hamilton, 32 Can. Law Jour. 366.

(Toronto) Consumers' Gas Company:

Capital (1900) is....	$1,700,000.00	Gross earnings	$740,450.00
Reserve	753,149 00	Net	286,000,00
	$2,453,149.00		

Taxes paid, $26,282.63.

Hamilton Gas Company:

Capital	$255,000.00	Gross earnings.....	$99,000 00
Reserve	75,000 00	Net	27,000.00
	$333,000.00		

Taxes paid, $3,959 04.

See 59 Vict. c. 112 for arrangement with city as to reduction of price of gas, profits of Company, sale of new stock, audits, etc.

See (Toronto) Consumers' Gas Company—somewhat similar Act, 50 Vict. c. 85.

N. B. The Gas Companies in addition to the Municipal Tax pay a tax to the Province under the provisions of the Ontario Revenue Act, 62 Vict. Cap. 8.

No. 12.

(*Referred to* p. 164.)

MEMORANDUM from Mr. Bicknell, Solicitor for the Toronto Ry. Co., showing amounts paid to the City of Toronto by the Company, in respect of the franchise from the making of the Agreement on the 1st of September, 1891, to December 1st, 1900.

Mileage Rentals.		Percentages of Receipts.		Taxes on Rails, Poles and Wires.	
Sept. 1891	$4,529 18	1891 & 1892	$38,206 48	1898	$9,062 93
Dec. 31, "	13,605 76	1893	72,234 54	1899	2,626 48
Mch. 31, "	13,683 00	1894	76,385 70	1900	1,798 08
June 30, "	13,683 00	1895	78,196 76		
Sep. 30, "	13,683 00	1896	78,921 67		
Dec. 31, "	14,085 00	1897	85,672 96		
Mch. 31, 1893	14,085 00	1898	98,631 46		
June 30, "	14,085 00	1899	111,425 66		
Sep. 30, "	14,085 00	Jan., 1900	9,177 52		
Dec. 31, "	14,085 00	Feb., "	8,380 29		
Mch. 31, 1894	14,085 00	Mch. "	9,422 60		
June 30, "	14,085 00	Apl., "	8,615 73		
Sept. 30, "	15,000 00	May, "	9,374 60		
Dec. 31, "	15,000 00	June, "	9,871 05		
1895	60,000 00	July, "	15,767 42		
1896	60,000 00	Aug., "	13,935 32		
1897	60,000 00	Sept., "	11,950 91		
1898	64,000 00	Oct., "	9,989 28		
1899	64,000 00	Nov., "	10,250 57		
1900	64,000 00				
	$559,778 94		$806,410 52		$13,487 49

Under judgment of the Court on appeal with reference to the measurements of mileage, the Company is also liable to the City for a sum approximating $40,000.

TOTALS.

Mileage paid	$559,778 94
Mileage unpaid, secured by judgment	40,000 00
Percentages paid	806,410 52
Taxes paid	34,441 47
	$1,440,630 93

Amount of Taxes levied on the Toronto Railway Co. for 1900.

By the City of Toronto :

Mileage	$ 68,000 00	
Percentages, including approximate percentage for December	127,140 29	
Taxes on rails, poles and wires	1,798 08	
Taxes on other real estate	11,457 63	
		$208,396 00

By the Province of Ontario :

Under Municipal Act, 1899	$4,748 14	
" " " 1900	4,748 21	
		9,496 35
		$217,892 35

No. 13.

(*Referred to* p. 170.)

DOCUMENTS FROM THE BOARD OF TRADE, TORONTO, RESPECTING THE ASSESSMENT OF COMPANIES OPERATING SPECIAL FRANCHISES.

To the Commissioners appointed by His Honour the Lieutenant-Governor of Ontario in Council, by Commission bearing date 10th day of September, 1900.

Gentlemen :—

We desire to approach your Honourable Body by a memorial setting forth the position of the Council of the Board of Trade of the City of Toronto on the present system of assessing special franchises, and herewith you will find appended a schedule containing the assessments in the City of Toronto of the various companies therein named as returned by the assessor and as finally confirmed, for the years 1898, 1899 and 1900.

We enclose statements, first, of the Secretary of the New York State Board of Tax Commissioners, second, the statement of James Henry, Assessor of Glasgow, Scotland, showing the manner in which the taxable value of special franchises is arrived at in the State of New York and in the City of Glasgow respectively, which will enable the Commission to see the course adopted elsewhere.

The Council of the Board of Trade desire to indicate that in their opinion assessments under the existing laws dealing with companies having Municipal Franchises do not properly and equitably apportion to these companies their fair share of the whole tax.

All of which is respectfully submitted.

Signed on behalf of the Council.

A. E. KEMP,
President.
EDGAR A. WILLS,
Secretary.

Toronto, November 19th, 1900.

Lands Valuation Office
City Chambers.
249 George Street, Glasgow.
June 9th, 1900.

Dear Sir :—

I am favoured with yours of 26th April and would have answered your letter sooner but pressure of work has prevented me. I am not aware that I can add much additional information regarding the system of valuing for assessment purposes to that already furnished you. With regard to the valuation of lines of railway referred to in your letter, the valuation is arrived at on the principle of revenue and by allowing certain deductions as working expenses to earn that revenue, those deductions include locomotive power, repairing and renewing rolling stock, traffic charges, general charges, rates and taxes, etc. Railway stations are valued at 5 per cent on the cost, this latter sum is deducted from the valuation before arrived at and is rated in the same way as any ordinary subject, the line itself being rated only on one fourth of the annual value, it being understood that like under ground water and gas pipes that such subjects do not require the same attention for watching, etc., purposes from the Municipal Authorities.

I might just add that the method adopted in Glasgow for raising assessments for local purposes has been pretty much the same since the passing of the Lands Valuation (Scotland) Act in 1854, and generally speaking has met with the approval of the great bulk of the ratepayers.

Yours truly,
(Sgd.) JAMES HENRY,
Assessor.

JAMES D. ALLAN, ESQ.,
51 Bay St.,
Toronto.

Albany, July 31, 1900.

EDGAR A. WILLS, ESQ.,
Secretary, Board of Trade,
Toronto, Can.

Dear Sir :—

I beg to acknowledge receipt of yours of July 30th. With reference to the system of valuing special franchises, the law provides no rule, consequently the commissioners were permitted to consider every element connected therewith

The rule of assessment, as laid down by the Courts, for the valuing of tangible property of railroads, prior to the passing of the franchise law, was the cost of reproduction at the time of making the assessment. This, of course, admitted of an allowance for depreciation. The intangible portion of the special franchise is measured by the earning capacity of a corporation under careful business management.

Very truly yours,

(Sgd.) PETER DEYO,
Secretary Assessment Department.

STATEMENT showing the assessment of the plant and other real property of the following Companies for the years 1898, 1899 and 1900.

Name of Company.	1898.		1899.		1900.		
	As returned by the Assessor.	As finally confirmed.	As returned by the Assessor.	As finally confirmed.	As returned by the Assessor.	As finally confirmed.	Value of Real Property other than Plant.
Bell Telephone Co.....	Personalty. $100,00	$100,000	Plant, $604,907	$69,800	Plant, $135,000	$90,000	$42,903
Toronto Railway Co.....	Plant, 537,137	537,137	Plant, 596,380	150,920	Plant, 93,233	91,212	640,005
Consumers' Gas Co	Plant, 500,000	500,000	Plant, 550,000	550,000	Plant, 550,000	(By consent,) 250,000	1,025,214
Incandescent Light Co.....	Plant, 277,980	277,980	Plant, 496,119	233,500	Plant, 130,000	(By consent,) 130,000	49,725
Toronto Electric Light Co ..	Plant, 325,005	325,005	Plant, 329,000	260,000	Plant, 221,000	(By consent,) 221,000	288,600
G. N. W. Telegraph Co	Personalty, 25,000	25,000	Plant, 32,000	7,000	Plant, 3,500	3,500	32,200
C. P. R. Telegraph Co.....	nil.	nil.	Plant, 8,994	8,134	Plant. 8,382	8,317	nil.
Toronto, Mimico Electric R. R	nil.	nil.	Plant, 8,070	2,100	Plant, 2,100	2,100	1,790

Toronto Railway Co.—For 1898 the Company's plant, as assessed, represent 85.26 miles of poles, wires and rails, valued at $6,300 per mile. For 1899 the value and number of miles were increased. For 1899 the "scrap iron" decision was not given until after Ward No. 1 was assessed, and for this year we have the anomalous position that for Ward No. 1 the assessment stands at $84,860, for 13.47 miles at $6,300 per mile, while Wards 2, 3, 4, 5 and 6 are assessed at $900 per mile, or a total of $66,060, being $18,800 less than Ward No. 1 alone.

City Assessor's Office,
Toronto, Nov. 16th, 1900.

No. 14.

(*Referred to* p. 173).

STATEMENT FROM ASSESSMENT COMMISSIONER OF THE CITY OF LONDON.

Office of the Assessment Department,
LONDON, Ont., November 21st, 1900.

T. LANGTON, ESQ.,
Secretary Assessment Commission,
Toronto.

DEAR SIR:—

I herewith submit a statement shewing the total assessment of the City of London made in the year 1900 for the year 1901 :

Total assessment		$17,821,695
Real Estate	$15,225,915	
Personal	2,041,500	
Income	554,280	
	$17.821,695	

You will observe that the personal property and income combined, amounts to $2,595,780 or about one seventh of the whole instead of one-third as I stated from memory before the commission. The Court of Revision struck off

$40,700	Real Estate
26,500	Personal
3,750	Income

This would not alter the proportions as given above.

Your obedient servant,
STEPHEN GRANT,
Assessment Commissioner.

No. 15.

(*Referred to* p 197).

STATEMENT FROM ASSESSMENT DEPARTMENT, TORONTO, AS TO TORONTO STREET RAILWAY.

TORONTO, November 21st, 1900.

TO THE PRESIDENT AND MEMBERS,
Board of Assessment Commission, Toronto.

Statement re Toronto Railway Company Claim that doing away with the so called "Scrap Iron Assessment" would lower their dividends 2 per cent.

GENTLEMEN :—

The assessment of this company's plant for the year 1900 as finally confirmed, was the sum of $91,212.

If their rails, poles and wires were assessed at the sum of $6,300 per mile, (the amount that it is agreed would be a proper assessment as a going concern), that assessment would be about $537,137, showing an increase of $445,925. The taxes on this sum of $445,925 at 19½ mills on the dollar would be $8,695.

Mr. Bicknell's contention is that this proposed increase in their assessment would reduce their dividends on $6,000,000 capital stock by about 2 per cent.

As 2 per cent. on $6 000,000 would be $120,000, it is clear that he was wrong by the difference between $120,000 and $8,695, or the sum of $111,305. And the reduction, instead of being 2 per cent., would be about 14/100ths of one per cent.

Yours truly,

JAMES C. FORMAN.

No. 16.

(*Referred to* p. 198).

MEMORIAL FROM THE CANADIAN FRATERNAL ASSOCIATION.

TORONTO, Ont., Nov. 22nd, 1900.

To the Royal Commission on the laws relating to assessment of property for the purpose of Municipal Taxation in the Province of Ontario.

GENTLEMEN :—

The Canadian Fraternal Association composed of the following Friendly Societies, namely :

Ancient Order of United Workmen,
Canadian Order of Chosen Friends,
Order of Canadian Home Circles,
Canadian Order of Oddfellows,
Oddfellows Relief Association,
Knights of the Maccabees,
Royal Arcanum,
Catholic Foresters,

and the following other societies acting in conjunction therewith, namely,

Sons of Scotland,
Canadian Woodmen,
Royal Templars of Temperance,
Independent Order of Foresters,

representing over 300,000 members, in order to save the valuable time of the commission submit the following memorial, unanimously agreed upon by the representatives of the above societies, namely, that the Assessment Act of Ontario be so amended that the income arising from investments of the funds of all friendly societies in Ontario be exempt from municipal taxation for the following among other reasons :—

1. The trend of recent legislation in Great Britain in reference to co-operative and friendly societies has been to remove any impediment to their progress.

2. The revenue of friendly societies is exclusively devoted to the relief and protection of the members and their beneficiaries.

3. All surplus funds of said societies are held by them in trust for the above mentioned purposes

4. The taxation of any income arising from the surplus funds decreases the amount of relief and protection thus afforded by the friendly societies.

5 The membership of friendly societies being largely composed of artisans and those of limited incomes the state should encourage by every means in its power the spirit of thrift and self reliance embodied in these operations whereby municipalities are greatly relieved from increased burdens that would otherwise have to be provided for.

Signed on behalf of said association and of said societies,

A. E. MALLORY,
President C. F. A.
WM. F. MONTAGUE,
Secretary-Treasurer C.F.A.
LYMAN LEE,
Counsellor C. F. A.

No. 17.

(Referred to pp. 206 *and* 229.*)*

STATEMENTS FROM ASSESSMENT DEPARTMENT, TORONTO, AS TO EXEMPTIONS FROM TAXATION.

Total Assessment of the City of Toronto as returned by the Assessors for the following years.

Year.	Value of Land.	Value of Improvements.	Total value of Real Property.	Personal property.	Taxable income.	Total.	Amount of exemption	Population.
	$	$	$	$	$	$	$	
1882			46,264,624	6,487,068	3,534,347	56,286,039	9,465,300	81,372
1883			51,437,896	6,962,780	3,719,508	62,120,184	9,711,044	86,585
1884			54,156,102	7,452,980	4,076,315	65,685,397	10,139,124	99,131
1885			57,516,816	7 572,886	4,105,412	69,225,114	10,787,540	105,211
1886			60,695,505	7,682,003	4,338,025	72,715,533	11 040,858	111,800
1887			69,442,018	8,849,208	5,265,585	83,556,811	11,986,353	118,403
1888			84,256,933	9,132,821	4,906,097	98,295,851	13,755,043	126,169
1889			99.276,057	8 954,285	4,832.733	113,063,075	15,877,504	144,035
1890			122 651,244	9,470,988	5,108,546	137,230,778	18,922,458	160,141
1891			132.402,383	9,846,676	5.526,789	147,775,848	21.281,368	167,439
1892			136,584,603	10,308,660	6,060,273	152,952,936	22.999,868	170,651
1893			138,619,813	8,535,024	4,758,485	151,913,322	23,215,386	169,099
1894			139,519,659	9,136,838	4,803,109	153.459,606	23,189,524	167,653
1895	75,559,274	55,893,819	135,453,093	8,871,715	4,730,143	149,054.951	23,652,308	174,309
1896	73,763,114	55,839,107	129,602,221	8,181,588	4,680,331	142,464,140	23,313,578	176,858
1897	63,305,119	55,550,101	118,855,220	9,155,578	4,519,332	132,530,130	22,158,516	178,185
1898	59,986,392	55,519,841	115,506,233	7.744.448	4,522 455	127,773,136	21.839,387	183,172
1899	57,168,053	57,354,761	114,522.814	8 648,497	4.712,505	127 883,816	22,441,306	186,517
1900	56,428,020	56,725,219	113,153,239	8.294,459	4,288,311	125,736,009	23.222,231	192,907
1901	56,559,577	56,276,507	114,836,084	9,225,878	4,892,182	128,954,144	23,428,893	199,043

STATEMENT OF THE DIFFERENT CLASSES OF EXEMPTIONS OF REAL PROPERTY IN THE CITY OF TORONTO FOR THE YEAR 1901.

1. City of Toronto property.

Ward No.	Parks.	Fire Halls.	Police Stations.	Public Libraries.	High Schools.	Public Schools.	Miscellaneous: City Hall, Drill Shed, Jail, etc.
	$	$	$	$	$	$	$
1	91,714	9,324				97,396	337,544
2	185,594	20,727	11,340		67,603	198,866	17,927
3	132,480	87,776	56,791	84,550		259,924	2,970,631
4	431,990	34,735	10,000	5,000		260,163	528,227
5	66,900	27,152	15,484	5,134	49,978	186,981	178,347
6	622,150	13,630	8,902		50,260	183,576	155,312
	1,530,826	193,344	102,517	94,684	167,841	1,186,906	4,187,988

2. Church property

Ward No.	Methodists.	Presbyterian.	English.	Baptist.	Congregational.	Roman Catholic	All other denominations.	Places of worship other than churches.
	$	$	$	$	$	$	$	$
1	31,727	13,564	29,408	21,521	6,750	9.600	2,050	4,084
2	146,100	148,222	132,818	82,006	... .	171,665	20,115	53,645
3	427,467	444,875	609,937	89,475	172 572	353,700	163,421	196,848
4	235,426	114,305	240,893	69,360	36,930	32,225	59,260	40,186
5	116,885	75,720	40,695	64,784	8,354	56,150	1,898	22,261
6	75,807	111,366	26,006	33,165	3,760	33,300	9,212	8,461
Total	1,033,412	908,052	1,079,757	360,311	228,366	656,640	255,956	325,485

3. Educational, charitable, etc.

Ward No.	Protestant Seminaries.	Roman Catholic Seminaries.	Separate Schools.	Charitable Institutions.		Hospitals.
				Protestant.	Roman Catholic.	
	$	$	$	$	$	$
1	.....	.....	5,610	....	23,500	134,000
2	130,158	20,895	90,235	135,213	150,795	243,867
3	191,883	159,095	5,700	186,782	27,045	214,336
4	75,124	141,098	18,305	46,563	.....	81,948
5	....	16,120	58,089	5,058	.....	.....
6	.....	55,666	4,100	62,863	58,550	106,680
	397,165	392,874	182,039	436,479	259,880	750,831

3. Educational, charitable, etc.—*Continued.*

Ward No.	Cemeteries and Burying Grounds.	Universities and Colleges.	Ontario Government.	Dominion Government.	County of York.	Toronto Junction.
	$	$	$	$	$	$
1	88,154	9,176	....	.....	.....	.....
2	292,500	26,820	....	.....	... .	.....
3	.....	533,673	1,121,472	714,850	75,450	.....
4	.....	2,162,672	1,781,825	33,370	.....	.....
5	....	385,375	866,445	479,500	....	.....
6	.....	5,600	133,355	.....	.....	300
	380,654	3,123,316	3,903,097	1,227,720	75,450	300

No. 18.

(*Referred to* p. 241.)

LETTER FROM THE SOLICITORS OF THE CANADA LIFE ASSURANCE CO.

Hamilton, Ont., November 10th, 1900.

THOMAS LANGTON, ESQ., Q C.,
Toronto, Ont.
Re Assessment Commission.

Dear Sir :—

We understand that you have now been appointed the Secretary of this Commission, and we desire to bring before the Commissioners a grievance which the Canada Life Assurance Company have in common with other Life Companies, and we imagine Fire Companies as well, and it is this,—When the Revenue Act 62 Victoria Chapter 8 was being considered by the Government they heard a deputation from the Life Insurance Companies, who claimed that if the Government were to impose a revenue tax, as they were then contemplating, and as they did by the Revenue Act, they should remove the municipal tax which had become very burdensome to the companies.

You will remember that the case of Kingston vs. the Canada Life (19 O. R. 453) in which you held a brief before the Divisional Court, decided the income of a Life Company could only be assessed against the Company in the municipality where its Head Office was situate, and that was followed without question in all the subsequent years' assessments of our Company. Then in the year 1897 this municipality, prompted by the decision in the assessment case of the Confederation Life in Toronto, assessed our Company not for the income which went to the shareholders, but for all the income which they received of any character, and that was a very large sum and formed one of the chief grounds for the Government interfering themselves and taking the tax and depriving the municipalities, and we believe we can safely say that when the matter was discussed with the members of the Government while the Revenue Bill was going through its stages, the views of the then Treasurer, Mr Harcourt, and of other members was that the municipal tax should be entirely taken away, but Mr. Hardy, probably thinking that the municipality where the Head Office was situate had some rights and that they should not be entirely taken away, had the seventh section passed in the form in which you now find it, and that has been construed by our County Judge to mean that the Canada Life with its Head Office here was subject to the assessment upon the income received by it from the mortgages on properties within the City of Hamilton and all dividends on stocks of companies whose head office was within the city, or interest on the bonds of companies whose head office is here, and that seemed to be about as reasonable a construction as could be placed upon a section, which was not very plain.

The Company's Head Office is now in Toronto, and the Assessment Commissioner of Hamilton has assessed the Company for the same amount as when their Head Office was here, and the Court of Revision have sustained that assessment under the advice of Mr. MacKelcan, the City Solicitor.

Now, if Mr. MacKelcan be right in that view, then every municipality throughout the Province in which the Company has an agent and an investment may assess them, and in the result it may be that the Company are assessed for nearly as much as they were before the passing of the Revenue Act, and it seems to us that this is a matter that the Commission should hear us upon and consider, and we shall be glad if you will let us know what steps we should take to bring it before them beyond this letter, and when we may have an opportunity of explaining our views before the Commission.

Yours truly,
(Sgd) BRUCE, BURTON & BRUCE.

No. 19.

(*Referred to* p. 281.)

JUDGMENT.—RE EDINBURGH LIFE INSURANCE COMPANY ASSESSMENT APPEAL.

McDOUGALL Co. J.—The Edinburgh Life Insurance Co. has its head office in Scotland. At one time it conducted some of its life business in Canada, but for some years past, it is stated, it has ceased to do any new insurance business in Canada. It, however, invests some of its money in Canadian mortgages and other securities, and has an officer or agent here who collects premiums on the old business and adjusts losses upon any of the policies becoming claims.

Mr. Kingstone, the solicitor whose name appears on the roll as representative of the Edinburgh Life Company, looks after its investments. There is also a local Advisory Board in Toronto, which reports on proposed investments. This Board, however, has no power to accept the loan, the final decision resting with the Home Board. Payments of interest on some of the investments are made to Mr. Kingstone, and some payments are remitted by the borrowers by draft direct to the Company. Moneys received by Mr. Kingstone from principal or interest are deposited by him to the credit of the Company in a Toronto bank, where the Company has a bank account in their own name. In cases of new loans, cheques are drawn upon this bank account to supply same on the authority of the head office, and if there is not sufficient money at the credit of the Company, the necessary amount is usually transmitted by draft from Scotland to the bank here or direct to the borrower. All mortgages are in duplicate, one counterpart is sent to the head office in Scotland.

Mr. Kingstone is paid by salary or allowance, and not by commission. He receives his remuneration directly from the head office. His dealing with the investments is not mixed up in any way with the agencies which collects the life premiums and settles losses. The Corporation of the city of Toronto have assessed the Company by name, adding Mr. Kingstone's name on the roll as representative, for $19,600 income. The Court of Revision confirmed this assessment, and the present appeal is made to me in the usual way.

It is contended by the Company, first—that neither the relations with Mr. Kingstone and his office nor the maintenance of the collecting and adjusting agency create or establish a branch or agency in Toronto, within the meaning of the Assessment Act; and, second, that the Company in any event is not assessable in this Province on income, or upon the interest derived from their investments. In support of this latter objection, the case of City of Kingston vs. Canada Life, 19 Ont., 453, is cited. It is argued that the principle of that case prevents any part of the income of a life company from being assessed anywhere except at the head office. Income, it is alleged, under the definition laid down in Lawless vs. Sullivan, 6 Appeal Cases, 373, is the gain, if any, resulting from the balance of the profits and losses of the business in the year, and that in consequence no integral part of the income can be attributed to the city of Toronto, and in that view, no sum whatever, arbitrary or otherwise, could be assessed as income at any particular branch or agency. The present case, however, is not the case of a Provincial company or of a company having its head office in this Province. The interest is earned within the Province and deposited to the credit of the Company at a bank within the Province, and is subject to the Company's order and control, either to be remitted to Scotland or the accumulations invested within the Province.

Three sections of the Assessment Act may be referred to as being important to be considered—sections 11, 39 and 40. Section 11 reads:

"All personal property within the Province in the possession or control of any agent "or trustee for or on behalf of any owner thereof, who is resident out of the Province, "shall be liable to assessment in the same manner and subject to the like exemption as in "the case of other personal property of the like nature under this Act."

It is stated by Mr. Kingstone that, of the interest derived from mortgages upon Toronto property, fourteen thousand dollars a year is collected here and deposited to the company's credit in a Toronto bank; ten thousand dollars additional interest is earned upon Toronto investments, but is transmitted direct by the borrower to the company in

Scotland, the interest by the terms of the mortgages being made payable there. It does not pass either through his hands or through the bank account here.

It appears to me that, as to the fourteen thousand dollars, it is money which is in the possession of an agent in the Province (the Bank) for the owner (the company)—a person within the meaning of section 11, non-resident within this Province, and this sum, if the property of a non-resident private individual, would be clearly assessable. Does the fact of the owner being a corporation make any difference?

Section 39 directs that "the personal property of an incorporated company" (other than certain companies mentioned in the section inapplicable to the appellants) "shall be "assessed against the company in the same manner as if the company were an unincor- "porated company or a partnership"

By section 40 a partnership is to be assessed at "the usual place of business of the partnership." The chief place of business in this Province of the appellants is in Toronto. Under the Insurance Act it is considered the chief agency of the Province, and for all ordinary incidents, such as serving of writs, notices, etc., it is to be treated as the head office. It is, therefore, I think, "the usual place of business" of the company in this Province, as defined by section 40. A branch situate outside the Province is not within the contemplation of the second sub-section of section 40. Property outside the Province is not assessable. It is not suggested that the appellants have any other place of business or branches in this Province, hence the office in Toronto is the usual place of business of the company. From this it is clear that the company can be assessed on its personal property held in Toronto, and personal property in the interpretation clause, section 2, sub-section 10, includes interest upon mortgages, income, etc, etc.

In the City of Kingston vs. Canada Life, Boyd C. said that he was of the opinion that income, as an intangible, an invisible entity, was not to be read into sections 35 and 36 (now sections 40 and 41), and that income was not an item to be included in the expression personal property used in those sections, that the words personal property as used in those sections did not have the comprehensive and inclusive meaning attributed to them in the interpretation clause. This opinion, however, was expressed upon the facts of the case before the Court. In that case the City of Kingston had sought to assess a domestic life company, having its head office in this Province, for income alleged to have been earned at a branch office of the company at Kingston, a place also within the Province.

The Phoenix Insurance Co vs. City of Kingston, 7 Ont. 343, and re North of Scotland Mortgage Company, 31 U.C, C.P. 552, are two cases in our own Courts relating to the assessment of foreign companies. The Phoenix Insurance Co. had a head office for the Canadian business in Montreal with a branch office in Kingston, and in the North of Scotland Mortgage Company case it appeared that its only agency in Canada was at Toronto. Both companies were held liable to be assessed on their income earned at Kingston and Toronto respectively.

I cannot distinguish the present case from these decisions which appear to determine the matter, unless their authority is shaken by the case of City of Kingston vs. Canada Life, 19 Ont. 453. Neither of the above cases appear to have been cited to the Divisional Court pronouncing judgment in the Canada Life case, nor are they alluded to in the judgment of Boyd, C., who delivered the judgment of the Court. It may be that, because they related to the case of foreign companies they were not deemed to be in point as affecting the status of a local or domestic company. I think that the decision in the case of Kingston vs. Canada Life must be confined in its application to cases of domestic or home companies having their head offices within the Province.

I take it that if the Edinburgh Life Company or any private individual, a non-resident, had a sum of money on deposit in a bank in this Province, and the assessor discovered it, and assessed it as personal property, the assessment would be legal and proper. Here the assessor has assessed interest derived from mortgage placed upon real estate and situate in Toronto, and this interest has been deposited in a bank in this Province to the credit of the company. The amount has been called income upon the assessment roll. Can it make any difference in the case of a non-resident what you call the fund? The definition of personal property in the statute includes income, and it is immaterial to the company whether these particular funds are assessed as personal property or as income, provided they are subject to assessment at all. If necessary, as upon an appeal the whole assessment is open, I would make any amendment of the assessment neces-

sary, Sec. 71, sub.-s. 20. I do not think, however, that the interest on mortgages, the principal and interest of which are made payable by the terms of the contract in England or Scotland, and where, in compliance with this contract, the mortgagors remit their interest directly to the company, can be assessed here as personal property, because it is not received by the company, or any agent for them, in this Province. I think such moneys are not assessable at all as personal property, or as income in this municipality. The appeal will, therefore, be dismissed so far as the validity of the assessment is questioned but the amount of the assessment, $19,600, will be reduced to fourteen thousand dollars ($14,000) being the interest earned upon Toronto mortgages, and which interest it appears has been paid to the company in Toronto or into a bank at Toronto, and placed to their credit.

Certified a correct copy,
ERNEST NIELD, C.S.R.,
Official Reporter.

No. 20.

(*Referred to* p. 293).

TOTAL NUMBER OF ASSESSMENTS AS TAKEN FROM THE ASSESSMENT ROLLS OF THE CITY OF TORONTO FOR 1901.

Ward.	Div.	No. of Assessments.
1	1	3 082
1	2	5,315
2	1	5,210
2	2	4,203
3	1	7 396
3	2	4 557
3	3	3,280
4	1	4,863
4	2	5,035
4	3	2,181
5	1	4,228
5	2	4 262
5	3	2,123
6	1	4,416
6	2	4,583
6	3	2,972
Total		67,706

No. 21.

(*Referred to* p. 331.)

BILL INTRODUCED INTO THE LEGISLATURE IN 1895 TO PROVIDE FOR LOCAL OPTION IN REGARD TO TAXATION.

BILL.

An Act to Amend the Assessment Act.

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding anything, in The Consolidated Assessment Act, 1892, contained, any municipal corporation may change, reduce or abolish the assessment for taxation of all buildings and improvements on real estate, stocks of merchandize, machinery, personalty and income, or may assess for taxation any or all of such classes of property.

2. The powers conferred by section 1 of this Act may be exercised:

(a) By a by-law enacted by the municipal council, or

(b) By a vote of the municipal electors, when the proceedings to be taken shall be as follows:

(1) A petition signed by one-tenth of the electors of the municipality shall be presented before the 15th of November in any year to the council asking that the question of imposition, reduction or abolition of the assessment of any of the classes of property mentioned in section 1 of this Act be submitted to a vote of the electors, and the council shall submit such question at the next following municipal election; and the persons qualified to vote thereon shall be those qualified to vote at such elections, and if a majority of the votes cast be in favour of such reduction or abolition the council shall forthwith adopt and carry into effect the decision of such majority.

(2) The provisions of The Consolidated Municipal Act, 1892, relating to the submissions of by-laws to the ratepayers shall, save where inconsistent with the provisions of this Act, apply *mutatis mutandis* to the submissions of the said questions.

No. 22.

(*Referred to* pp. 284 *and* 349.)

MEMORANDUM FROM THE ASSESSMENT DEPARTMENT, TORONTO, RESPECTING TAXES VOLUNTARILY PAID BY THE GOVERNMENT.

The Dominion Government have paid for the asphalt pavement on the lane off Toronto street surrounding the Inland Revenue building. This was commuted on June 23rd, 1898; balance, $534 29.

The Dominion Government have practically agreed to pay for the roadway on the lane between Front street and Esplanade street. The pavement is not laid, but will be in the spring, it having passed the Court of Revision, etc. (See accompanying letters.)

The Ontario Government have paid for the asphalt pavement on Adelaide street opposite the old Upper Canada College grounds, $1,278 per annum—all paid to date.

The Toronto University paid for the asphalt pavement on Hoskin avenue and Devonshire place in all about $19,000.

The county of York were assessed for their property on Adelaide street (the old Court House), asphalt pavement. In Mr. Caswell's hands to sue for payment.

(Copy.)

Ottawa, October 17th, 1899.

G. H. RUST, City Engineer, Toronto.

My Dear Sir,—I must apologise for not having answered your letter of October 6th, in reference to the lane south of Front St. We have no money in the estimates to pay our share of the pavement, but there is no doubt whatever that we are bound to contribute in the ordinary way. It follows that during the next session of Parliament I will certainly apply for the $2,935 which represents the Government's share in the work. Hoping this will be found satisfactory,

I beg to remain

Yours truly,

(Signed) J. ISRAEL TARTE.

(Copy.)

Ottawa, March 10th, 1900.

Sir,—The question has arisen as to what material should be used in paving the lane or drive way in the vicinity of the Custom House and Examining Warehouse, Toronto, and I have been requested to state that the Department has decided that the best material for the purpose would be scoria blocks. I have not yet, however, received authority to proceed with the work. I have the honour to be, sir,

Your obedient servant,

(Signed) D. EWART,

Chief Architect.

The City Engineer, Toronto.

No. 23.

(*Referred to* p. 407.)

STATEMENT SHOWING ASSESSMENTS AND AMOUNT OF TAXES PAID FOR THE YEAR 1899 ON THE PROPERTY OF THE GRAND TRUNK RAILWAY COMPANY OF CANADA IN THE PROVINCE OF ONTARIO.

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total.
		$ c.	$ c.	$ c.	$ c.
Glengarry	Lancaster township	3,000 00		43 26	
"	Lancaster village	4,500 00		84 75	
"	Charlottenberg township	2,900 00	10,400 00	35 94	164 05
Stormont	Cornwall township	11,145 00		163 13	
"	Osnabruck township	8,500 00	19,645 00	133 64	296 77
Dundas	Williamsburg township	3,912 00		47 53	
"	Matilda township	4,500 00		56 13	
"	Iroquois village	5,000 00		90 00	
"	Morrisburg village	7,000 00	20,412 00	119 00	312 66
Grenville	Augusta township	3,490 00		32 97	
"	Edwardsburg township	4,200 00		51 85	
"	Prescott town	9,000 00		198 00	
"	Cardinal village	2,000 00	18,690 00	26 00	308 82
Leeds	Elizabethtown township	5,057 00		66 67	
"	Leeds Front township	3,600 00		48 95	
"	Lansdowne Front township	3,400 00		57 63	
"	Yonge Front township	2,950 00		44 35	
"	Escott Front township	2,100 00		28 41	
"	Brockville town	46,925 00	64,032 00	1,073 88	1,319 84
Frontenac	Kingston township	8 468 00		109 02	
"	Pittsburg township	3,684 00		50 79	
"	Olden township	361 25		16 18	
"	Oso township	233 00		11 03	
"	Kingston city	47,825 00	60,571 35	911 01	1,098 03
Lanark	Bathurst township	420 00		6 14	
"	Sherbrooke S. township	500 00		11 49	
"	Perth town	540 00	1,460 00	12 15	29 78
Lennox and Addington.	Ernestown township	4 800 00		55 51	
"	Fredericksburg North tp	3,000 00		29 78	
"	Richmond township	2,600 00		35 82	
"	Napanee town	4,500 00	14,900 00	124 74	245 85
Hastings	Tyendinaga township	7.560 00		100 01	
"	Thurlow township	7,350 00		71 66	
"	Sidney township	5,500 00		56 03	
"	Rawdon township	2,400 00		31 72	
"	Madoc township	1,600 00		37 54	
"	Huntingdon township	1,924 00		42 14	
"	Trenton town	5,725 00		128 69	
"	Stirling village	1,608 50		38 27	
"	Madoc village	2,150 00		38 70	
"	Belleville city	87,200 00	123,017 50	2,071 15	2,615 90
Northumberland	Murray township	2,000 00		21 13	
"	Brighton township	2,100 00		14 06	
"	Cramahe township	2,600 00		26 26	
"	Haldimand township	3,700 00		42 58	
"	Hamilton township	5,300 00		41 31	
"	Percy township	1,000 00		12 50	
"	Seymour township	1,945 00		23 93	
"	Monaghan South township	130 00		2 95	
"	Cobourg town	20,090 00		423 40	
"	Brighton village	5,100 00		66 40	
"	Colborne village	3,000 00		60 00	
"	Campbellford village	6,520 00		110 84	
"	Hastings village	2 500 00	55,985 00	58 75	904 06
Durham	Cavan township	4,000 00		36 79	
"	Clarke township	3.450 00		25 87	
"	Darlington township	6,700 00		50 44	
"	Hope township	15,564 00		86 19	
"	Manvers township	1,500 00		27 00	
"	Port Hope town	58.700 00		1,115 30	
"	Bowmanville town	6,000 00		90 90	
"	Millbrook village	1,300 00		21 45	
"	Newcastle village	1,900 00	98,114 00	38 00	1,491 04

STATEMENT No. 23 —*Continued.*

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total.
		$ c.	$ c.	$ c	$ c.
Ontario	Brock township	7,085 00		53 40	
"	Mara township	9,285 00		131 90	
"	Pickering township	9,785 00		61 28	
"	Rama "	3,100 00		86 50	
"	Reach "	7,587 00		56 17	
"	Thorah "	1,500 00		17 13	
"	Uxbridge "	2,650 00		36 02	
"	Whitby East "	6,600 00		49 55	
"	Whitby "	5,600 00		41 49	
"	Uxbridge town	4,800 00		110 40	
"	Whitby "	11,209 00		224 18	
"	Beaverton village	1,500 00		24 45	
"	Cannington "	2,100 00		31 50	
"	Port Perry "	5,085 00	77,886 00	116 96	1,047 93
Peterboro'	Asphodel township	1,285 00		12 47	
"	Douro "	1,500 00		16 75	
"	Monaghan North township.	1,300 00		9 97	
"	Otonabee township	3,252 00		24 83	
"	Smith "	5,125 00		38 43	
"	Peterborough town	43,200 00		719 72	
"	Ashburnham village	8,564 00		128 46	
"	Lakefield "	3,050 00	67,276 00	45 75	996 38
Victoria	Bexley township	2,994 81		90 32	
"	Eldon "	7,200 00		107 31	
"	Emily "	4,000 00		44 33	
"	Fenelon "	1,750 00		24 49	
"	Mariposa "	5,285 00		36 33	
"	Ops "	6,760 00		62 26	
"	Somerville township	2,920 00		94 20	
"	Verulam "	100 00		3 65	
"	Lindsay town	30,600 00		789 00	
"	Fenelon Falls village	1,800 00		43 20	
"	Omemee "	2,663 00		53 26	
"	Woodville "	1,400 00	66,622 84	20 56	1,368 91
York	Etobicoke township	11,000 00		160 69	
"	Gwillimbury East township.	300 00		45 66	
"	Gwillimbury North "	1,500 00		15 80	
"	King township	4,100 00		36 69	
"	Markham township	4,200 00		40 70	
"	Scarborough "	14,000 00		123 33	
"	Vaughan "	7,400 00		63 24	
"	Whitchurch "	5,000 00		46 41	
"	York "	34,350 00		416 12	
"	Aurora town	3,840 00		76 80	
"	Newmarket town	3,550 00		63 25	
"	North Toronto town (1898).	6,200 00		106 15	
"	Toronto Junction town	10,500 00		235 00	
"	East Toronto village	40,000 00		638 47	
"	Holland Landing village	1,705 00		24 77	
"	Markham village	1,425 00		42 33	
"	Stouffville "	1,100 00		16 31	
"	Sutton "	1,200 00		14 40	
"	Weston "	6,200 00		99 20	
"	Toronto city for 1900	1,585,809 00	1,746,379 00	31,541 81	33,807 13
Peel	Albion township	3,660 00		38 04	
"	Caledon "	4,200 00		43 86	
"	Chingnacousy township	8,000 00		52 00	
"	Toronto "	8,200 00		79 38	
"	Toronto Gore "	700 00		5 67	
"	Brampton town	7,500 00	32,200 00	150 00	368 95
Halton	Esquesing township	9,100 00		66 99	
"	Nassagaweya "	5 00		1 54	
"	Nelson "	10,450 00		75 40	
"	Trafalgar "	5,950 00		42 95	
"	Milton town	1,709 00		27 46	
"	Oakville "	3,012 00		60 17	
"	Acton village	3,100 00		62 00	
"	Burlington village	3,900 00		50 70	
"	Georgetown "	6,100 00	43,426 00	122 00	509 21
Wentworth	Ancaster township	300 00		2 79	
"	Barton "	7,580 00		73 78	

STATEMENT No. 23.—*Continued.*

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total.
		$ c	$ c.	$ c.	$ c.
Wentworth	Beverly township	6,252 00		51 10	
"	Flamboro East township	6,665 00		42 44	
"	Flamboro West "	8,400 00		71 60	
"	Glanford township	3,200 00		18 99	
"	Saltfleet "	14,830 00		102 27	
"	Dundas Town	3,000 00		72 30	
"	Hamilton City	579,020 00	629,248 00	11,608 86	12,044 13
Lincoln	Clinton township	5,821 00		55 46	
"	Grantham "	3,600 00		46 62	
"	Grimsby North township	5,100 00		41 01	
"	Louth township	3,800 00		42 09	
"	Grimsby village	3,000 00		57 00	
"	Merritton "	8,500 00		216 00	
"	Port Dalhousie village	13,764 00		344 10	
"	St. Catharines city	24,800 00	68,385 00	572 63	1,374 91
Welland	Bertie township	14,015 00		120 87	
"	Crowland "	1,300 00		24 54	
"	Humberstone township	8,900 00		101 41	
"	Stamford "	6,290 00		86 23	
"	Thorold "	3,635 00		55 20	
"	Wainfleet "	4,900 00		54 93	
"	Niagara Falls town	87,550 00		1,891 57	
"	Thorold town	1,462 00		37 26	
"	Welland "	1,450 00		39 07	
"	Bridgeburg village	21,000 00		273 00	
"	(Bridge)	175,000 00		2,275 00	
"	Port Colborne village	18,600 00	344,102 00	347 70	5,316 78
Haldimand	Canborough township	1,760 00		22 97	
"	Cayuga North "	6,382 00		60 25	
"	Moulton "	4,290 00		47 49	
"	Oneida "	2,850 00		29 37	
"	Rainham "	200 00		2 17	
"	Seneca "	5,500 00		57 47	
"	Walpole "	3,420 00		39 67	
"	Caledonia village	2,464 00		49 28	
"	Cayuga "	7,500 00		150 00	
"	Dunville "	5,000 00		117 50	
"	Hagersville "	400 00	39,766 00	7 20	583 37
Norfolk	Charlotteville towoship	6,564 00		99 81	
"	Middleton "	4,588 00		68 27	
"	Townsend "	4,500 00		36 65	
"	Walsingham South "	670 00		10 10	
"	Windham "	6,200 00		55 68	
"	Woodhouse "	4,879 00		50 21	
"	Simcoe town	13,000 00		269 85	
"	Delhi village	2,325 00		44 18	
"	Port Dover village	11,300 00		220 24	
"	Port Rowan "	5,000 00	59,026 00	103 25	958 24
Elgin	Bayham township	4,500 00		76 24	
"	Malahide "	1,657 00		17 65	
"	Southwold "	5,060 00		48 02	
"	Yarmouth "	3,395 00		39 21	
"	St. Thomas city	9,000 00		168 10	
"	Aylmer town	1,505 00	25,117 00	28 10	377 32
Kent	Camden township	1,600 00		27 46	
"	Harwich "	8,756 00		68 48	
"	Howard "	3,200 00		27 00	
"	Raleigh "	7,550 00		91 81	
"	Tilbury East "	1,700 00		26 59	
"	Zone "	2,500 00		24 53	
"	Chatham city	19,690 00		545 15	
"	Bothwell town	3,800 00		81 76	
"	Thamesville village	3,300 00	52,096 00	74 39	967 17
Essex	Maidstone township	2,505 00		48 91	
"	Rochester "	2,000 00		31 28	
"	Sandwich East "	5,856 00		145 02	
"	Tilbury North "	3,190 00		43 39	
"	Windsor city	400,150 00		9,343 27	
"	Walkerville town	15,900 00		481 69	
"	Belle River village	800 00	430,401 00	16 00	10,109 56

STATEMENT No. 23.—*Continued.*

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total.
		$ c.	$ c.	$ c	$ c.
Lambton	Bosanquet township	3,500 00		30 44	
"	Brooke "	4,580 00		77 30	
"	Enniskillen "	50 00		1 68	
"	Euphemia "	40 00		1 85	
"	Plympton "	9,020 00		123 66	
"	Sarnia "	12,312 00		257 71	
"	Warwick "	5,700 00		50 14	
"	Sarnia town	98,175 00		2,502 71	
"	Petrolea town	6,150 00		184 85	
"	Forest town	2,350 00		56 40	
"	Alvinston village	6,000 00		135 00	
"	Point Edward "	28,900 00		520 00	
"	Thedford "	1,500 00		25 50	
"	Watford "	4,300 00		109 65	
"	Wyoming "	3,200 00	185,777 00	74 13	4,151 22
Middlesex	Adelaide township	2,049 00		33 65	
"	Biddulph "	3,860 00		42 63	
"	Caradoc "	8,500 00		162 78	
"	Dorchester North township.	4 000 00		44 79	
"	Ekfrid township	11,100 00		88 40	
"	Lobo "	5,580 00		69 35	
"	London "	19,600 00		195 83	
"	McGillivray "	7,050 00		59 08	
"	Mosa "	5,200 00		112 45	
"	Nissouri West township	4,250 00		48 68	
"	Williams East "	2,870 00		27 37	
"	Williams West "	3,300 00		32 89	
"	London city	384,042 00		6,300 00	
"	Parkhill town	3,168 00		69 86	
"	Strathroy "	14,000 00		284 00	
"	Ailsa Craig village	3,600 00		64 80	
"	Glencoe "	1,900 00		47 00	
"	Lucan "	2,900 00		49 59	
"	Newbury "	3,500 00	489,869 00	87 50	7,819 68
Oxford	Blandford township	4,300 00		34 46	
"	Blenheim "	8,500 00		90 80	
"	Dereham "	700 00		9 06	
"	Norwich North township	4,600 00		33 41	
"	Norwich South "	3,200 00		35 83	
"	Oxford North "	7,395 00		49 84	
"	Oxford West "	190 00		1 87	
"	Oxford East "	6,040 00		41 32	
"	Zorra East "	6,625 00		55 23	
"	Ingersoll town	8,900 00		146 45	
"	Woodstock town	29,000 00		602 86	
"	Tilsonburg "	13,110 00		252 85	
"	Norwich village	1,000 00	93,560 00	20 00	1,374 02
Brant	Brantford township	10 000 00		71 62	
"	Burford "	3,270 00		33 03	
"	Dumfries South township	13,250 00		84 16	
"	Onondaga township	3,340 00		30 31	
"	Brantford city	85,800 00		1 647 84	
"	Paris town	22,090 00	137,740 00	409 86	2,276 82
Waterloo	Dumfries north township	5,130 00		31 90	
"	Waterloo "	15,400 00		135 10	
"	Wilmot "	5,400 00		70 85	
"	Woolwich "	4,865 00		48 86	
"	Berlin town	24,500 00		422 46	
"	Galt "	14,500 00		253 76	
"	Waterloo town	4,700 00		79 40	
"	Elmira village	2,100 00		28 60	
"	Hespeler "	1,825 00		30 11	
"	New Hamburg village	2,050 00		30 75	
"	Preston "	6,700 00	87,670 00	110 55	1,242 34
Wellington	Arthur township	350 00		3 96	
"	Eramosa "	3,500 00		27 45	
"	Guelph "	8,000 00		60 83	
"	Maryborough township	2,800 00		32 31	
"	Minto "	6,250 00		66 74	

STATEMENT No. 23.—*Continued.*

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total.
		$ c.	$ c.	$ c.	$ c.
Wellington	Nichol "	2,550 00		19 04	
"	Peel "	4,700 00		42 77	
"	Pilkington "	4,000 00		34 19	
"	Puslinch "	210 00		2 71	
"	Guelph city	44,800 00		1,064 65	
"	Harriston town	6,300 00		138 60	
"	Mount Forest town	4,000 00		90 00	
"	Pa'merston "	23,900 00		641 33	
"	Clifford village	2,185 00		28 41	
"	Drayton "	1,750 00		38 50	
"	Elora "	3,600 00		79 20	
"	Fergus "	4,795 00	123,690 00	93 51	2,464 20
Perth	Blanchard township	3,400 00		31 55	
"	Downie "	6,400 00		50 42	
"	Easthope North township	500 00		4 46	
"	Easthope South "	10,292 00		72 20	
"	Ellice "	2,100 00		35 36	
"	Elma "	7,800 00		106 30	
"	Fullarton "	2,400 00		25 19	
"	Hibbert "	3,900 00		23 61	
"	Mornington "	2,900 00		34 42	
"	Wallace "	7,080 00		47 64	
"	Stratford city	584,000 00		9,292 70	
"	Listowell town	6,000 00		135 80	
"	Mitchell "	5,200 00		104 00	
"	St Mary's "	12,050 00		253 05	
"	Milverton village	450 00	654,472 00	7 43	10,224 13
Huron	Goderich township	6,400 00		50 03	
"	Grey "	2,900 00		26 63	
"	Hay "	3,550 00		28 34	
"	Howick "	524 75		5 10	
"	Hullett "	4,650 00		31 38	
"	Morris "	7,610 00		51 53	
"	Stanley "	4,800 00		30 06	
"	Stephen "	3,100 00		27 29	
"	Tuckersmith "	3,400 00		23 93	
"	Turnberry "	1,750 00		19 58	
"	Goderich town	17,450 00		427 83	
"	Clinton "	6,684 00		156 79	
"	Seaforth "	6,100 00		150 74	
"	Wingham "	7,000 00		154 16	
"	Blythe village	1,300 00		23 40	
"	Brussels "	3,610 00		72 20	
"	Exeter "	3,000 00		49 50	
"	Hensall "	1,000 00	84,828 75	17 28	1,345 47
Bruce	Amabel township	5,395 00		115 44	
"	Arran "	2,800 00		24 60	
"	Brant "	5,500 00		50 65	
"	Bruce "	500 00		6 40	
"	Carrick "	4,754 00		52 42	
"	Elderslie "	3,500 00		34 10	
"	Greenock "	450 00		5 51	
"	Huron "	4,900 00		58 49	
"	Kinloss "	3,900 00		39 00	
"	Saugeen "	3,445 00		29 98	
"	Kincardine town	3,803 00		102 68	
"	Walkerton "	2,900 00		69 60	
"	Wiarton "	11,200 00		280 00	
"	Chesley village	2,500 00		55 00	
"	Lucknow "	2,946 00		64 91	
"	Paisley "	5,000 00		75 00	
"	Port Elgin village	1,735 00		33 56	
"	Southampton "	5,575 00		133 80	
"	Tara "	1,920 00	72,723 00	24 96	1,246 10
Grey	Bentinck township	3,210 00		49 27	
"	Collingwood "	2,115 75		32 89	
"	Egremont "	4,000 00		40 89	
"	Keppel "	4,340 00		100 12	
"	Normanby "	3,850 00		39 17	

STATEMENT No. 23 —*Continued*

Name of County.	Municipality.	Assessment.	Total.	Taxes paid.	Total
		$ c.	$ c.	$ c.	$ c.
Grey	St. Vincent township	580 00		6 89	
"	Sarawak "	5,156 00		97 32	
"	Durham town	2,890 00		57 80	
"	Meaford "	14,800 00		324 90	
"	Thornbury town	5,000 00		100 00	
"	Hanover village	850 00	53,916 75	18 30	1,002 92
Simcoe	Essa township	8,579 00		120 72	
"	Flos "	2,629 55		79 60	
"	Gwillimbury West township	1,900 00		40 06	
"	Innisfil "	7,454 00		114 96	
"	Medonte "	1,628 40		43 85	
"	Nottawasaga "	6,887 42		64 28	
"	Orillia "	4,553 00		94 63	
"	Oro "	3,500 00		47 07	
"	Sunnidale "	4,026 00		61 59	
"	Tay "	6,807 66		167 58	
"	Tecumseth "	3,500 00		46 84	
"	Tiny "	2,572 54		50 43	
"	Tossorontio "	4,353 00		54 91	
"	Vespra "	2,720 00		62 40	
"	Alliston town	1,686 00		36 86	
"	Barrie "	56,000 00		1,275 00	
"	Collingwood town	72,890 00		1,709 96	
"	Midland "	75,000 00		1,781 25	
"	Orillia "	16,055 00		360 51	
"	Penetanguishene town	10,000 00		269 02	
"	Stayner "	4,700 00		84 60	
"	Beeton village	3,500 00		73 50	
"	Bedford "	2,640 00		71 96	
"	Creemore village	1,100 00		20 90	
"	Tottenham "	1,200 00	305,882 57	24 00	6,756 08
Haliburton	Dysart township	2,528 78		96 62	
"	Snowdon "	1,750 00	4,278 78	87 05	183 67
Muskoka District	Chaffey "	2,497 00		49 95	
"	Draper "	140 00		5 69	
"	Macaulay "	1,401 00		38 84	
"	Monck "	981 00		14 32	
"	Morrison "	1,710 60		49 72	
"	Muskoka "	2,750 00		61 45	
"	Stephenson township	5,528 00		144 04	
"	Stisted "	128 00		3 88	
"	Bracebridge town	5,300 00		116 60	
"	Gravenhurst "	8,250 00		282 98	
"	Huntsville village	4,124 00	32,809 60	140 22	907 68
Parry Sound	Armour township	2,335 00		39 33	
"	Himsworth North township	3,400 00		130 20	
"	Himsworth South "	5,600 00		124 08	
"	Machar "	1,740 00		56 28	
"	Perry "	3,430 00		68 63	
"	Strong "	2,800 00		49 61	
"	Burk's Falls village	3,623 00		98 93	
"	Sundridge "	1,500 00	24,428 00	45 00	612 06
Nipissing	Ferris township	1,601 00		67 66	
"	Widdifield township	100 00		2 45	
"	North Bay town	1,800 00	3,501 00	46 80	116 91
Algoma	Sault Ste. Marie town	1,200 00	1,200 00	29 64	29 64

RECAPITULATION.

No.	No.		Assessment.	Taxes paid.
Counties 41	Cities	12	$3,832,446 00	$75,154 22
	Towns	66	998,093 00	22,787 05
	Villages.....	80	533,298 50	9,104 17
	Townships	239	1,161,666 64	13,314 30
	Totals.....	397	$6,525,504 14	$120,359 74
Province of Ontario direct taxes				$13,193 15
				$133,552 89

No. 23 a.

(*Referred to* p. 411.)

COMPANIES REPRESENTED BY MR. W. M. DOUGLAS, Q. C.

1. Bowmanville Elect. Light Co.
2. Dunnville Elect. Light Co.
3. Renfrew Elect. Company, Limited.
4. W. Moore & Sons, Meaford.
5. Shelburne Elect. Light Co.
6. Pembroke Elect. Light Co.
7. Carleton Place Elect. Co.
8. Sarnia Gas & Elect. Light Co.
9. John Philp, Grand Valley & Arthur, Ont.
10. Strathroy Elect. Co.
11. Joseph Knox, Stayner.
12. Parry Sound Elect. Co.
13. Madill Bros, Lakefield.
14. Midland Elect Co
15. Canada Life, Cobourg Elect. Co.
16. Woodstock Elect. Co. & Gas Works.
17. Hamilton & Prout, Forest.
18. St. Thomas Gas Co. and Electric
19. London Elect. Co.
20. Owen Sound Elect. and 111 Co, and Gas Works.
21. Brantford Elect. and Operating Co.
22. Galt Gas Company and Electric.
23. Gananoque Elect. Co.
24. Arnprior Elect. Co.
25. Ottawa Elect. Co.
26. St. Catharines Elect. Co.
27. Smith Falls Elect. Co.
28. William Snider, Waterloo, Ont.
29. Almonte Elect. Co.
30. Lindsay Elect. Co.
31. Welland Elect. Co.
32. Napanee Elect. Co.
33. Robertson, Rowland & Co., Walkerton.
34. D. A. McIntyre, Paisley.
35. People's Elect. Co., Windsor.
36. R. P. Bearman, Chesley.
37. Kingston Light, Heat and Power Co., & Gas Works.
38. Stormont Elect. Co., Cornwall, & Gas Works.
39. Peterboro' Elect. Company & Gas Works.
40. Clinton Elect. Company.
41. Kilmer, Crawford & McIntyre, Durham.
42. Petrolea Elect. Co.
43. Alliston Elect. Co.
44. Gravenhurst Elect. Co
45. Wingham Elect. Co.
46. D. Greutzner, Hamilton, Ont.
47. I. J Gould, Uxbride.
48. Wallaceburg Elect. Co
49. Ingersoll Elect. Co.
50. Markdale Elect. Co.
51. Seaforth Elect. Co.
52. Leamington Elect. Co.
53. Wiarton Elect. Co.
54. Mattawa Electric Co.
55. Trenton Elect. Co.
56. Guelph Elect. Co. & Gas Works.
57. R. A. Corbett, Port Hope, Ont.
58. Tremaine & Snell, Exeter, Ont.
59. Pertg Elect. Co.
60. Aylmer Elect. Co.
61. Citizens' Telephone & Elect. Co., Rat Portage.
62. Corley & Collins, Mount Forest, Ont.
63. J. A. Spence, Colborne, Ont
64. Palmerston Elect. Light Co.
65. W. C. Harriston, Norwood, Ont.
66. Knight Bros. Co., Burk's Falls.
67. Aurora Elect. Co.
68. George Munro, Thamesville, Ont.
69. Henry Cook, Hensall, Ont.
70. Glen Williams Elect. Light Co.
71. E Livingston, Blyth, Ont.
72. Listowel Elect. Light Co. & Gas Works.
73. Merrickville Elect. Light Co.
74. Belleville Gas Co. & Toronto Power Co.

No. 24.

(*Referred to* p. 426.)

LETTER FROM R. G. BARRETT, BARRISTER AT-LAW.

TORONTO, December 3rd, 1900.

HON. JUDGE MACLENNAN,
Chairman of Assessment Commission,
Toronto.

DEAR SIR,—

* * * * * * * * * * * *

The few points to which I am desirous of drawing attention are as follows :

The Court of Revision of Toronto hold, I suppose correctly, that they can allow an abatement of taxes for vacancies only where the property has been vacant that year, for a period not less than three months, and that they can take no account of vacancies occurring during the previous year. Such being the case, if the property is vacant during the previous year for less than three months no allowance for abatement can be allowed for that year, and if the same property continues vacant for less than three months during the first three months of the next year, no rebate is allowable, notwithstanding that the property has continued vacant for nearly six months, of which period not quite three months has the property been vacant in either year.

Another matter which I beg to call attention to is in the case of property being leased for 21 years, the rental having been fixed by arbitration. The ground rent being admitted by the Court of Revision to have been too high, yet the assessors, governed by the amount fixed as ground rent, assess the property accordingly. The Court of Revision will not take into consideration that the arbitrators, in fixing the ground rent, did so not only for the year in which the arbitration took place, but to continue the same for the whole period of 21 years, the arbitrators doubtless adopting a sliding scale in arriving at their award ; admitting that the yearly rent would be excessive for the first ten years, but the last eleven years in the expected increase in value of the land would equalize what should be the proper rent for each year of the term of years.

The lessee may show the Court of Revision, beyond the possibility of a doubt, that by paying the high rate of taxes assessed, he is in some instance not only in no receipt from the property of any returns, but actually some years, after devoting his time to the management of the property, paying ground rent, taxes, insurance, repairs, etc , he is out of pocket, so that he is paying taxes upon unproductive property which yields him nothing.

Another case which must be of considerable importance to owners of property originally farms, but have been laid out into village lots, of say a fifth of an acre each. The greater portion of these lots remain unsold, there being no demand for them. Notwithstanding the statute passed with the intention that such vacant lots should be assessed as farm lands, they are assessed as village lots. No income is derived from them, being vacant, and no demand for them. The Court of Revision, and the County Judges in several instances, having confirmed the assessment made on each separate lot.

I have not noticed that the question of the common schools has been brought to the notice of your Board, if not permit me to say that in Toronto 5½ mills of the taxes are charged for the support of these schools. This high rate is rendered necessary, not merely for the purpose of giving boys and girls a common English education, but also, in many cases, to give a classical one, to fit them for a profession. Few would object to be taxed a reasonable amount to support common schools, so as to give every boy and girl an education to fit them for the common walks of life, till they reach the age of fifteen or sixteen. If parents desire their children to be educated beyond that it should be at their expense. If this rule was adopted, less schoolhouses and fewer masters would be required, reducing by a third the present high assessment.

Very respectfully,

Yours truly,
R. G. BARRETT.

No. 25.

(*Referred to* p. 428.)

MEMORIAL FROM VILLAGE OF PICKERING.

To the Assessment Commissioners appointed by the Ontario Government, now in session at the Parliament Buildings.

We, the undersigned farmers in possession of farm land within limit of Pickering police village, beg to submit for your consideration: That by the outlay of special village tax, no direct annual profit or benefit can come to us more than to farmers outside of limit; that we suffer loss in our farming operations by being obliged to discriminate both in the kinds of crop and the kinds of stock we raise.

Therefore, our humble petition is that the assessment on farm land within village limit be no higher than that levied upon township land outside of limit.

(Signed) GEO. H. JONES,
ROBERT MILLER,
HENRY GORDON,
ANDREW DOUGLAS,
MRS. SARAH CLARK,
JOHN CLARK,
L BANKS,
W. H. BANKS.

When we were fighting the vote, Arthur Johnston, of Greenwood, County Councillor said he was sorry for us, but it could not be helped as the law was at present.

GEO. H. JONES.

No. 26.

(*Referred to* p. 429.)

LETTER FROM J. IDINGTON, Q.C., STRATFORD.

STRATFORD, ONT., November 22nd, 1900.

The Secretary Assessment Commission,
Toronto, Ont.

DEAR SIR,—My attention has just been called by our assessor to the effect that is being given to section 38 of the present Consolidated Assessment Act. Commercial travellers who live here, but whose employers live in London and carry on business in London, and whose duties are discharged everywhere throughout Canada as well as in London or Stratford, are assessed for income by the London assessors and their tax is paid there, and whilst they think it unjust, claim to be exempt here.

I submit for the consideration of the Assessment Commission that there should be a modification of this section of the statute so as to render it clear in cases of this kind, and that the mere fact of the master or principal's place of business does not carry with it by implication that the duties have been performed there, when in fact and in truth they have been performed in many municipalities.

I also submit that the section is founded upon a vicious principle. The man derives the benefit of all our educational system and protection for his family where his home is, and not where he happens to work and possibly spend a few hours each week or month, as the case may be.

Yours truly,

JOHN IDINGTON.

No. 27.

(*Referred to* p. 429)

LETTER FROM A. H. MARSH, Q.C., TORONTO.

THOMAS LANGTON, ESQ., Q.C.,
Secretary of Assessment Commision,
9 Toronto St., Toronto.

DEAR SIR,—I have recently been engaged in an appeal to the County Court Judge here from the Court of Revision in connection with a matter which I would like you to bring before the Assessment Commission

The appeal was from the assessment of a residence property in the Queen's Park in this city, which consists of a house built by a leaseholder upon a lease held under what is usually called an University lease. The city assesses all of the University leaseholders upon the value of the fee simple in the whole property. The appeal was taken in support of the contention that it is only the value of the leaseholder's interest in the property which should be assessed, and not the value of the fee. In support of this contention it was urged that the fee in the said property is vested in the Crown, and that therefore, apart from some statutory provision expressly subjecting the property to taxation, it would not be liable to taxation at all, because the Assessment Act, like all other statutes, does not affect the Crown unless the Crown is expressly included.

Section 7 (1) of the Assessment Act deals with the matter, and provides that lands vested in the Crown are exempt from taxation unless they are occupied by some persons otherwise than in an official capacity, in which case the occupant shall be assessed "*in respect thereof.*" It was contended in support of the appeal that the words "in respect thereof" do not mean that the leaseholder in such a case shall be assessed for the value of the fee simple, but only that he shall be assessed "in respect thereof," that is, he shall be assessed for the value of his interest in the property.

It was further contended that the lands in question would be entirely exempt from taxation if it were not for the said provision of the Act, and that, therefore, the said lands should not be assessed to a greater extent than they were expressly made liable by the provisions of the Act, and that it would be equitable and just to tax the leaseholder to the extent only of his interest in the property.

It was further pointed out that this principle is expressly applied by Section 23 (1) of the Act to the case of persons who purchase lands from the Crown and give a mortgage back for a portion of the purchase money.

Judge McDougall has now dismissed the appeal holding that the city is entitled to assess the value of the fee.

The result of this is that the majority of residences in the Queen's Park have no selling value whatever, for the taxes, local improvement rates, ground rent, insurance and requisite expenditures for permanent repairs to prevent deterioration, entirely exhaust all that could be obtained for rent of the premises. Taxation upon the named basis in effect amounts to confiscation. There does not seem to be any good reason why a leaseholder holding under the Crown should not have applied to him the same principle with reference to taxation which is applied in the case of a purchaser who purchases from the Crown and gives back a mortgage for a part of the purchase money.

If you will bring this letter before the commissioners for their consideration I shall be much obliged.

Yours faithfully,

A. H. MARSH.

Toronto, Dec. 10, 1900.

No. 28.

(*Referred to* pp. 445 *and* 503.)

STATEMENT from the City from Toronto showing the Revenue tax and the Municipal income taxes combined as compared with the income taxes on the original assessment for 1899, of the following Loan and Insurance Companies. For the purpose of a just comparison a rate of 19½ mills on the $ is taken for both years.

1. Imperial Loan & Investment Co.	$43,000 @ 19½		$ 838 50
1900 assessment	1,010 @ 19½	$ 19 83	
Revenue tax 1899		520 00	
			539 83
The City loses $818.67 and the company gains			$ 298 67
2. Globe Savings & Loan	$22,000 @ 19½		$ 429 00
1900 assessment	1,000 @ 19½	$ 19 50	
Revenue tax 1899		260 00	
			279 50
City's loss $409 50, and the company gains			$ 149 50
3. Real Estate Loan	$ 14,948 @ 19½		$ 291 48
1000 assessment	1,148 @ 19½	$ 22 39	
Revenue tax 1899		260 00	
			282 39
City's loss $269.09, and company gains			$ 9 09
4. Canada Permanent	$156,000 @ 19½		$3,042 00
1900 assessment	12,569 @ 19½	$ 245 10	
Revenue tax 1899		1,690 00	
			1,935 10
City's loss $2,796 90, and company gains			$1,106 90
5. Confederation Life	$223,000 @ 19½		$4,348 50
1900 assessment	26,000 @ 19½	$ 507 00	
Revenue tax 1899		5,528 49	
			6,035 49
City's loss $3,841.50, company pays additional			$1,686 99
6. North of Scotland Mortgage	$40,000 @ 19½		$ 780 00
1900 assessment	5,000 @ 19½	$ 97 50	
Revenue tax 1899		520 00	
			617 50
City's loss $682 50, company's gain			$ 162 50
7. Manufacturers' Life	$50,000 @ 19½		$ 975 00
1900 assessment	7,000 @ 19½	$ 136 50	
Revenue tax 1899		2,243 33	
			2,379 83
City's loss $838 50, company pays additional			$1,404 83

8	London & Ontario Inv. Co.	$33,000 @ 19½		$ 643 50
	1900 assessment	5,000 @ 19½	$ 97 50	
	Revenue tax 1899		390 00	
				487 50
	City's loss $546, company's gain			$ 156 00
9.	Western Canada Loan	$90,000 @ 19½		$1,755 00
	1900 assessment	15,000 @ 19½	$ 292 50	
	Revenue tax 1899		975 00	
				1,267 50
	City's loss $1,462.50, company's gain			$ 487 50
10.	British Canadian Loan	$90,000 @ 19½		$ 411 37
	1900 assessment	3,638 @ 19½	$ 70 94	
	Revenue tax 1899		260 00	
				330 94
	City's loss $340 43, company's gain			$ 80 43
11.	Freehold Loan	$79 146 @ 19½		$1,523 35
	1900 assessment	15,000 @ 19½	$ 292 50	
	Revenue tax 1899		910 00	
				1,202 50
	City's loss $1,230 85, company's gain			$ 320 85
12.	London & Canadian Loan	$42,000 @ 19½		$ 819 00
	1900 assessment	8,000 @ 19½	$ 156 00	
	Revenue tax 1899		455 00	
				611 00
	City's loss $663, company's gain			$ 208 00
13.	British American Assurance Co.	$52,500 @ 19½		$1,023 75
	1900 assessment	16,000 @ 19½	$ 312 00	
	Revenue tax 1899		1,348 33	
				1,661 33
	City's loss $711.75, company pays additional			$ 637 58
14.	Trust & Loan Co. of Canada	$40,000 @ 19½		$ 780 00
	1900 assessment	12,419 @ 19½	$ 242 17	
	Revenue tax 1899		1,040 00	
				1,282 17
	City's loss $537.83, company pays additional			$ 502 17
15.	Western Assurance Co.	$100,000 @ 19½		$1,950 00
	1900 assessment	35,000 @ 19½	$ 682 50	
	Revenue tax 1899		1,514 97	
				2,197 47
	City's loss $1,267.50, company pays additional			$ 247 47

16. Star Life Assurance Society	$65,000 @ 19½		$1,367 50
1900 assessment	25,812 @ 19½	$ 503 34	
Revenue tax 1899		135 75	
			639 09
City's loss $864.36, company's gain			$ 728 41
17. Canada Landed & National Inv. Co.	$60,000 @ 19½		$1,170 00
1900 assessment	24,000 @ 19½	$ 468 00	
Revenue tax 1899		715 00	
			1,183 00
City's loss $702, company pays additional			$ 13 00
18. Building & Loan Association	$30,000 @ 19½		$ 585 00
1900 assessment	12,435 @ 19½	$ 242 48	
Revenue tax 1899		520 00	
			762 48
City's loss $342.52, company pays additional			$ 177 48
19. Union Loan & Savings Co.	$27,780 @ 19½		$ 541 71
1900 assessment	14,000 @ 19½	$ 273 00	
Revenue tax 1899		455 00	
			728 00
City's loss $268.71, company pays additional			$ 186 29
20. North American Life	$94,000 @ 19½		$1,833 00
1900 assessment	60,000 @ 19½	$1,170 00	
Revenue tax 1899		3,549 41	
			4,719 41
City's loss $663, company pays additional			$2,886 41
21. Excelsior Life Ins. Co.	$ 7,000 @ 19½		$ 136 50
1900 assessment	4,500 @ 19½	$ 87 75	
Revenue tax 1899		756 50	
			844 25
City's loss $48.75, company pays additional			$ 707 74
22. Queen City Fire Ins. Co.	$ 5,000 @ 19½		$ 97 50
1900 assessment	3,500 @ 19½	$ 68 25	
Revenue tax 1899		124 93	
			193 18
City's loss $29.25, company pays additional			$ 95 68

The loss in the assessment of the above named companies (22), $986,919.

The total loss of all such companies located in Toronto and assessable here, $1,400,000.

J. C. Forman.

No 29.

(*Referred to* p. 463)

Illustration showing the working of a Life Insurance Fund (Level Premium Plan) and the functions discharged by the Premium and Interest on the same.

Assume 1,000 lives entering at age sixty and continue till the last dies at age ninety seven.

Institute of Actuaries Hm. Table of Mortality and 4½ per cent. interest.

Annual Premium for $1,000, $55,881.

Prem. × No. Living	1,000 000	$ 55,881 60	Reserve brought forward		$170,787 47
Interest 4½ p.c.		2,514 60	Prem. × No. Living	725.661	40,550 66
		58,395 60	Interest 4½ p.c.		9,510 21
No. of Deaths	29.680	29,680 00			220,848 34
			No. of Deaths	38.626	38,626 00
Reserve 1st year		28,715 60			
			Reserve 9th year		182,222 34
Prem. × No. Living	970.320	54,222 45	Prem. × No. Living	687.035	38,392 20
Interest 4½ p.c.		3,732 21	Interest 4½ p.c.		9,927 65
		86,670 26			230,542 19
No. of Deaths	31.089	31,089 00	No. of Deaths	39.394	39,391 00
Reserve 2nd year		55,581 26	Reserve 10th year		191,148 19
Prem. × No. Living	939.231	52,485 46	Prem. × No. Living	647.641	36,190 82
Interest 4½ p.c		4,862 99	Interest 4½ p.c.		10,230 25
		112,929 41			237,569 26
No. of Deaths	32.534	32,534 00	No. of Deaths	40.276	40,276 00
Reserve 3rd year		80,395 41	Reserve 11th year		197,293 26
Prem. × No. Living	906.697	50,667 13	Prem. × No. Living	607.365	33,940 16
Interest 4½ p.c		5,897 81	Interest 4½ p.c.		10,405 50
		136,960 35			241,638 92
No. of Deaths	33.992	33,992 00	No. of Deaths	41.331	41,331 00
Reserve 4th year		102,968 35	Reserve 12 year		200,307 92
Prem. × No. Living	872.705	48,767 72	Prem. × No Living	566.034	31,630 54
Interest 4½ p.c.		6,828 12	Interest 4½ p.c.		10,437 23
		158,564 19			242,375 69
No. of Deaths	35 266	35,266 00	No. of Deaths	42.418	42,418 00
Reserve 5th year		123,298 19	Reserve 13th year		199,957 69
Prem. × No. Living	837.439	46,976 92	Prem. × No. Living	523.616	29,260 18
Interest 4½ p.c.		7,654 28	Interest 4½ p.c.		10,314 80
		177,749 39			239,532 67
No. of Deaths	36.369	36,369 00	No. of Deaths	43.386	43,386 00
Reserve 6th year		141,380 39	Reserve 14 year		196,146 67
Prem. × No. Living	801.070	44,764 59	Prem. × No. Living	480.230	26,835 73
Interest 4½ p.c.		8,376 52	Interest 4½ p.c.		10,034 20
		194,521 50			233,016 60
No. of Deaths	37.305	37,305 00	No. of Deaths	43.796	43,796 00
Reserve 7th year		157,216 50	Reserve 15th year		189,220 60
Prem. × No. Living	763.765	42,679 65	Prem. × No. Living	436.434	24,388 36
Interest 4½ p.c.		8,995 32	Interest 4½ p.c.		9,612 40
		208,891 47			223,221 36
No. of Deaths	38.104	38,104 00	No. of Deaths	42.927	42,927 00
Reserve 8th year		170,787 47	Reserve 16th year		180,294 36

Reserve brought forward.....		$180,294 36
Prem. × No. Living.....	393.507	21,989 56
Interest 4½ p.c.....		9,102 78
		211,386 70
No. of Deaths.....	41.857	41,857 00
Reserve 17th year		169,529 70
Prem. × No. Living.....	351.650	19,650 55
Interest 4½ p.c.....		8,513 07
		197,692 32
No. of Deaths.....	40.330	40,330 00
Reserve 18th year		157,362 32
Prem. × No. Living.....	311.320	17,396 87
Interest 4½ p.c.....		7,864 16
		182,623 35
No. of Deaths.....	38.537	38,537 00
Reserve 19th year		144,266 35
Prem. × No. Living.....	272.963	15,253 44
Interest 4½ p.c.....		7,178 39
		166,698 18
No. of Deaths.....	36.320	36,320 00
Reserve 20th year		130,378 18
Prem. × No. Living.....	236.643	13,223 85
Interest 4½ p.c		6,462 09
		150,064 12
No. of Deaths	34.230	34,230 00
Reserve 21st year.		115,834 12
Prem. × No. Living.....	202.413	11,311 04
Interest 4½ p.c.....		5,721 53
		132,866 69
No. of Deaths.....	31.989	31,989 00
Reserve 22nd year.....		100,877 69
Prem. × No. Living	170.424	9,523 46
Interest 4½ p.c.....		4,968 05
		115,369 20
No. of Deaths.....	29.202	29,202 00
Reserve 23rd year		86,167 20
Prem. × No. Living	141.222	7,891 62
Interest 4½ p.c.....		4,232 65
		98,291 47
No. of Deaths.....	26.246	26,246 00
Reserve 24th year		72,045 47
Prem. × No. Living.....	114.976	6,424 97
Interest 4½ p.c.....		3,531 17
		82,001 61
No. of Deaths.....	22.866	22,866 00
Reserve 25th year		59,135 61
Prem. × No. Living.....	92.11	5,147 20
Interest 4½ p.c.....		2,892 72
		67,175 53
No. of Deaths.....	19.332	19,332 00
Reserve 26th year		47.843 53

Reserve brought forward.....		$47,843 53
Prem. × No. Living	72.779	4,066 96
Interest 4½ p.c.....		2,335 97
		54,246 46
No. of Deaths.....	15.985	15,985 00
Reserve 27th year		38,261 46
Prem. × No. Living	56.794	3,173 70
Interest 4½ p.c		1,864 58
		43,299 74
No. of Deaths.....	13.132	13,132 00
Reserve 28th year		30,167 74
Prem. × No. Living	43.662	2,439 87
Interest 4½ p.c.....		1,467 34
		34,074 95
No. of Deaths.....	10.448	10,448 00
Reserve 29th year		23,626 95
Prem. × No. Living	33.214	1,856 03
Interest 4½ p.c.....		1,146 73
		26,629 71
No. of Deaths.....	8.409	8,409 00
Reserve 30th year		18,220 71
Prem. × No. Living	24.805	1,386 12
Interest 4½ p.c.....		882 30
		20,989 13
No. of Deaths.....	6.931	6,931 00
Reserve 31st year.....		13,558 13
Prem. × No. Living	17.874	998 82
Interest 4½ p.c.....		655 06
		15,212 01
No. of Deaths.....	5.590	5,590 00
Reserve 32nd year.....		9,622 01
Prem. × No. Living	12.284	686 44
Interest 4½ p.c		463 88
		10,772 33
No. of Deaths.....	4.315	4,315 00
Reserve 33rd year		6,457 33
Prem. ×No. Living	7.969	445 31
Interest 4½ p.c.....		310 62
		7,213 26
No. of Deaths...:.....	3.313	3,313 00
Reserve 34th year		3,900 26
Prem. × No. Living	4 656	260 18
Interest 4½ p.c.....		187 21
		4,347 65
No. of Deaths...	2.362	2,362 00
Reserve 35th year		1,985 65
Prem. × No. Living	2.294	128 19
Interest 4½ p.c.....		90 00
		2,204 74
No. of Deaths.....	1.461	1,461 00
Reserve 36th year.....		743 74
Premium × No. Living.....	.833	46 55
Interest 4½ p.c.....		35 56
		825 85
No. of Deaths.....	.833	833 00

No. 30.

(*Referred to* p. 464)

ILLUSTRATION of the working of Life Insurance on a single life. Age 30 at issue. Insurance $1,000. Life plan. Interest 4½ per cent.

1st Year.

Net Prem	$15 80	Cost of carrying risk	$ 7 65
One year's interest	71	Reserve	8 86
	$16 51		$16 51

2nd Year.

Reserve	$ 8 86	Cost of carrying risk	$ 7 78
2nd prem	15 80	Reserve	17 99
1 year's interest	1 11		
	$25 77		$25 77

3rd Year.

Reserve	$17 99	Cost of carrying risk	$ 7 90
3rd premium	15 80	Reserve	27 42
1 year's interest	1 53		
	$35 32		$35 32

4th Year.

Reserve	$27 42	Cost of Carrying risk	$ 7 97
4th premium	15 80	Reserve	37 19
1 year's interest	1 94		
	$45 16		$45 16

5th Year.

Reserve	$37 19	Cost of carrying risk	$ 8 11
5th premium	15 80	Reserve	47 27
1 year's interest	2 39		
	$55 38		$55 38

No, 31.

(*Referred to* p. 475.)

MEMORANDUM PUT IN BY MR. SUTHERLAND.

I desire to refer briefly to the fundamental principle which underlies the whole discussion in relation to the taxation of life insurance. What is insurance? Insurance is unlike other business, other kinds of business relate to the production of wealth from the soil, from the mines, from the forests, from the lakes, or from somewhere. They have to do with the production of property and the accumulation of wealth. Or they relate to some form of manufacture by which that which has already been produced is changed in its form and by that means increase in value and usefulness, and so adds to the comforts and convenience of the people or they relate to some form of exchange, by which property that has already been produced or manufactured is transported from one part of the country, or one part of the world to another, and so its convenience, utility and value is increased. Other kinds of business, then, have to do with the production, or manufacture, or exchange. Insurance has to do with none of these. It produces nothing, it manufactures nothing, it exchanges nothing In no form whatever can it be said to add anything to the wealth of the people of the state. Its only function is to deal with loss

Not that it produces loss, but it is a mere instrument by which the loss that has already been sustained is lifted from the individual who sustained it, and distributed over a larger number, so that the individual who would otherwise have sustained a serious and perhaps overwhelming loss, is by this instrumentality relieved from its burden, and the loss so distributed as to be almost imperceptible to each of the large number of individuals who share it.

I understand the fundamental idea of taxation to be that revenue shall be derived from the property, from the accumulation from the wealth, from the prosperity of the people. It is in utter opposition to this whole idea, that revenue shall be derived from the losses of the people, and I take it that the naked proposition, that the state should derive its revenue from the losses or disasters of the people rather than from their gains and their prosperity, would be instantly rejected by this Commission and by the Legislature. To illustrate this proposition, let us take the simplest form of fire insurance. Suppose a man should lose his house by fire, and suppose the neighbours, realizing that the loss is so severe as to be embarassing and perhaps disastrous to the loser, are prompted to bring in their contributions of various amounts to relieve the man and his family from the consequences of the loss; and suppose as they came to the family with their contributions, of whatever sum, the Province stood by and demanded that every contributor before he placed his offering at the feet of the family in distress should pay to the Province one per cent. upon its value for the privilege of making this contribution for relief, or, suppose the Province stood by the side of the family when the accumulated contributions had been received and the Province said to the family, "Pay to the Provincial Treasurer one per cent. for the privilege of retaining the balance." Such a proposition would be regarded as monstrous and would not be entertained for a moment by any individual. It is true that in this supposed case there is no insurance whatever, because the whole matter is voluntary and uncertain. In order to relieve the case of this uncertainty suppose a thousand men in this community should agree together that in case of loss by fire happening to any one of them, they would stand by each other and share the loss equally to the extent of $1,000. Now suppose a fire occurs after this arrangement has been completed and a loss of $1,000 has been sustained. Suppose the 999 men, with about $1.00 apiece come in to contribute that sum for the benefit of the loser, and the Province stands by with its one per cent. club and says to each contributor, "Pay me one per cent for the privilege of contributing your dollar," or stands by the man, whose house is burning and says to him, "Pay me $10 00 out of $1,000, for the privilege of receiving the contributions of the 999"

Now, what has happened when this fire occurred? Certainly nothing has been produced, nothing has been manufactured, nothing has been exchanged, there has been no increase or accumulation, nothing has occurred whatever except a loss. $1,000 worth of property has gone up in smoke; the Province is so much poorer than it was before the fire; the community in which the loser lived is so much poorer, and the man and his family are so much poorer. In other words, $1,000 worth of property has been destroyed and nothing has occurred except a loss to the community and the individual, and the burden of the loss has been lifted from the individual and distributed over so large a number that it is not so seriously felt by anyone, and the man who originally sustained the loss is enabled to rebuild. By this means the property has not been brought back, restored, or in any sense reproduced. Simply a loss has occurred and by the agreement of the 1000 men the loss has been distributed. If the Province steps in and imposes a one per cent. tax either upon the man or the contributors, it thereby increases the loss to that extent; and I suppose a proposition to put a law upon our Statute books to that effect would be instantly rejected. The loss and distribution has been illustrated in this way: Suppose a man should go to the shore of the lake and dip out a bucketful of water. For a moment there would be at that point a depression and very evident loss, but the adjacent water would immediately rush in and the general level of the lake be restored. There would certainly be a loss to the lake of a bucketful of water, but the loss would be so promptly and thoroughly distributed as not to be perceptible. There will be but 500 remaining and each must contribute two dollars, and at length 100 will remain and each must contribute ten dollars, and then ten will remain and each will contribute one hundred dollars, and at length only two will remain, and the first of the two that died would have a thousand dollars paid to his family by the sole survivor

and when he died there would be no one to pay his family.

This result of such an arrangement is so unsatisfactory in its practical workings that to avoid it there is another simple form of insurance, and that is an arrangement by which a thousand men in this community might agree that in case of the death of one of them the survivors would each contribute a dollar for the benefit of the family of the deceased. When the first man died, as before, nothing has occurred but a loss, and when the 999 men contribute their dollar apiece they are doing nothing whatever but lifting the loss from the individual and distributing it over a large number. Presently another member will die and then nine hundred and ninety eight dollars will be contributed, and the process will go on until only 500 remain and then five hundred dollars will be contributed, and at length only ten will remain and only ten dollars will be contributed, and the last but one that dies will have but one dollar contributed to his family, and when the last dies, his family will receive nothing. This form of insurance is also objectionable because the amount of money paid over to the family sustaining the loss grows constantly less and less, and the longer and the more a man pays the less will his family receive when he dies.

In both these simple forms of insurance I have supposed, the object sought for is the same. The 1,000 men who entered into the arrangement originally recognized the fact that when a death occurred a loss was sustained, and they made their arrangements for the sole purpose, not of avoiding the loss; not to prevent the loss; not to restore that which had been lost, but simply of lifting the loss in its crushing effects from the individual and distributing it over a large number who would but slightly feel it because each would sustain so small a loss. But in whatever form we view either of these propositions we must bear in mind that the whole thing relates solely to loss, and that any plan to derive revenue to the Province from the arrangement that has been made is merely and purely increasing the loss that has been sustained, and deriving revenue from the loss. Now it has been found that there are very serious practical objections to either of these forms of insurance. When deaths have occured and reduced the original number of a thousand, so that on the one plan in order to make up a thousand dollars to the family of the deceased member, the contributions of the remaining members increased and finally became very large, the survivors become dissatisfied with the large payments, and are tempted to abandon the arrangement, and the organization inevitably falls to pieces for want of cohesion. On the other plan the fact that the individual contributions from each survivor remain the same, causes the amount received by the families of the deceased to become smaller and smaller, and more and more unsatisfactory, and this organization also is liable to fall to pieces for want of cohesion.

What then is to be done to accomplish the laudable object that was had in view by each of these plans, and make it entirely satisfactory for an indefinite time? Manifestly to make a complication by which an average of all the payments necessary to realize the thousand dollars to the family of the deceased shall be ascertained. Such computations have been made; the ratio of mortality and other necessary factors being taken into account result in determining the table rates for life insurance in use by companies transacting the business of life insurance at the present time. Now, suppose we have a company of a thousand members, who have agreed to pay the table rates for a life policy from year to year, for under this arrangement, manifestly there must be a stated period at which a fixed amount must be paid by each member. The first payments will, of course be larger on this level premium than they were in the simple case I first instanced, where each of the 999 men contributed a trifle more than one dollar to pay the first loss, and the level premium will remain larger than upon the other plan, until the debts have become so numerous that the gradually increasing payments would exceed the level premium. The level premium plan of insurance necessarily involves the organization of a company with officers, agents and other employees, and carefully prepared premium rates. etc. The Dominion Insurance Act requires that the interest earned by the company must equal a certain per cent. of compound interest on the reserve. A definition showing what the reserve is, avoiding technical terms may be helpful.

The reserve is the amount of money required by the insurance law of Canada to be set aside and accumulated at a given rate of compound interest, which, with future premiums, will enable the Company to meet its policy claims as they mature by death or otherwise.

The following is a simple illustration of the effect of the reserve, ignoring the mortality element.

Suppose that A owes $10,000 due in 20 years, and is required to set aside annually an amount which with 4 per cent. compound interest will equal the $10,000 at the maturity of the debt. The amount of annual deposit required will be $322 90, and that amount will be the "Reserve" at the beginning of the first year. At the beginning of the second year the "Reserve" will be ($322 90 + $322.90 + $12 92) $658 72. At the beginning of the third year the "Reserve" will be ($658.72 + $26.35 + $322 90) $1,007.97, and so on, until the beginning of the 20th year, when the "Reserve" required will be $9,615.39, which, with interest at 4 per cent. for one year will amount to the $10,000 then due.

The objection may be raised that to the extent of the interest produced by this reserve there has been a production of something which is of value, and that that production ought to be taxed. But when the level premium was fixed, the fact that there must be a reserve which would draw interest was taken into account, and the amount of this level premium was less than it otherwise would have been owing to the fact of the interest that was certain to be derived, and hence it is in no proper sense a profit or a production, and therefore ought not to be taxed.

Having stated in a general way the principles on which a life insurance company is organized, I claim that the object in view in such an organization is precisely the same as the object in view of the simpler forms of insurance I have instanced, and that every time the annual premium is paid by the member of the life insurance company, that premium is paid purely to meet a loss which has already been sustained by the organization, or which will be inevitably sustained in the future, and if it is wrong to impose a tax upon neighbours who voluntarily contributed each about $1.00 for the payment of a thousand dollar loss, it is equally wrong to impose a tax upon the level premium that is paid by the members of the regularly organized life insurance company. In either case there is loss, and only loss. In either case the contribution is made for the sole purpose of distributing the loss, and turn it over in whatever way we please, we come back to the first principle, that the imposition of a tax upon a loss, or upon a fund that is gathered for the sole purpose of paying a loss, should not be tolerated for a moment.

Now let us pass from the case of fire to that of life insurance, for there is a moneyed value in a human life. When a man dies a pecuniary loss has been sustained just as certainly as when a house has been burned. The head of a family who produces an income which supports, educates and otherwise cares for the family stands to that family in a financial aspect precisely like a house or block of stores that produce rent or money which draws interest, and when such a man dies the effect upon a family in a financial point of view is the same as though the family had lost property that produced income, or money that was drawing interest and by which they were supported. The wealth of the Province is in the brains and the muscle and the virtue of its people, and when the head of a family dies a pecuniary loss has been sustained just as truly as when a building has been burned, and in whatever light we view it when the income-producing head of the family dies a loss, and nothing but a loss, has been sustained. Now, suppose that in this community 1,000 men should agree that in the case of the death of any of them the survivors would contribute to the family of the deceased the sum of $1,000. When the first man dies the 999 remaining would contribute each a trifle over a dollar, and so make up the $1,000 for the family of the deceased. What would you say of a proposition to 1,000 men who had in this way agreed to stand by each other and share their losses, that whenever they came in with their small contribution of $1.00 each they must contribute one cent to the Provincial Treasury for the privilege of paying that sum; such a pro position would be adding loss to loss, or, in other words, would be a tax upon a loss, and you may turn it over in every possible way and you can make nothing of it but deriving the revenue of the Province from the losses of the people; whereas it ought to derive its revenue from the wealth and prosperity of its people. When the losses fell upon the family, instead of allowing the individual family to stand the loss alone the 999 who had entered into the arrangement with the deceased stepped forward and distributed that loss over the whole number, so that to the extent of $1,000 the family is relieved.

No. 32.

(*Referred to* p. 499).

Year	Fund brought forward at beginning of year. (1)	Annual payment. (2)	Total 1 x 2. (3)	Interest on 3 at 4 per cent (4)	Fund at end of year—3 x 4. (5)
	$ c.	$ c.	$ c.	$ c.	$ c.
1	.....	800 87	800 87	32 03	832 90
2	832 90	800 87	1,633 77	65 35	1,699 12
3	1,699 12	800 87	2,499 99	100 00	2,599 99
4	2,599 99	800 87	3,400 86	136 04	3,536 90
5	3,536 90	800 87	4,337 77	173 52	4,511 29
6	4,511 29	800 87	5,312 16	212 49	5,524 65
7	5,524 65	800 87	6,325 52	253 03	6,578 55
8	6,578 55	800 87	7,379 42	295 18	7,674 60
9	7,674 60	800 87	8,475 47	339 02	8,814 49
10	8,814 49	800 87	9,615 86	384 64	10,000 00

NO. 33.

(*Referred to* p. 499)

EXTRACT FROM ADDRESS OF THE PRESIDENT OF THE TRAVELLERS' INSURANCE CO.

* * * * * * * * * *

The policy of the different states is fixing a tax on premiums is worthy of notice on account of its diversity. In four states and the District of Columbia it is 1 per cent. ; in twenty-one states 2 per cent. ; in five states 2½ per cent. ; in four states 1½ per cent. ; in one state 3 per cent., less losses actually paid (Indiana); one state (Michigan) 3 per cent. without deduction for losses ; in one state (Iowa) 1 per cent. on home companies, 2¼ per cent on companies of sister states, and 3½ per cent. on companies from foreign countries. In Kentucky the state tax on premiums is 2 per cent. and the tax in the City of Louisville, 2½ per cent. in addition thereto. The state of New York exempts the life, fire, marine, and casualty companies of other states, but companies from foreign countries pay 2 per cent.

If we take these tax laws into their respective localities we shall find that the legislative mind had nothing in view but a measure of relief for the tax payers of his own state by this method of taxing the corporations of some other state. The legislator sees the large volume of taxes paid into the state treasury by foreign corporations, but he does not see the reaction of the tax in diminished dividends from the mutual companies and increased rates of premiums in the stock companies. In one way or another the policy holder must pay the tax. If it were not so, the enormous volume of taxation would in due time consume the companies and drive them into liquidation, for they have no other source of supply except from the premiums collected. The State of New York may through a heavy special tax on foreign companies take away the power of competition with her home companies by a 2 per cent. handicap and thus hold up the premium rates, which would otherwise be reduced. The foreign tax makes a fine exhibit in the State treasurer's report, but who pays it if not the policy-holder? Let no man deceive himself that so much money has been drawn from London or Amsterdam by means of the tax, for every dollar has been contributed by policy-holders in New York alone.

The State of Iowa protects her home companies by a tax one and one half times greater on companies from sister states and three and one half times greater on companies from foreign countries The home companies are well protected by the tax, but who pays it? The policy-holders resident in the State of Iowa and no one else. It is a tax on their premiums and they must pay it.

In Pennsylvania the insurance taxes amount to $318,408, while in the State of New York they are only $274,113, much of which comes from the tax on premiums paid by foreign companies. Pennsylvania levies a tax of eight mills on the premiums collected in

that state by her own companies. The amount of this tax is $60,583.54. Outside companies in that state collected premiums paying a tax of 2 per cent., equal to $656,831.76. Total premiums tax, $717,415.30.

Pennsylvania companies collected in other states premiums on which they in turn paid a 2 per cent. tax, equal to $482,650 26. Pennsylvania has 37 fire, 7 life and 3 casualty and miscellaneous companies, while the outside companies doing business in the state are 142 fire, 43 life, and 30 casualty and miscellaneous companies.

The fees, licenses and taxes other than the premium tax amounted to $100,992 70 to which add the premium tax, $717,415 30, and we have the grand total paid to Pennsylvania, $818,408.

Considering, however, the large amounts of special taxes, fees and municipal licenses paid by Pennsylvania companies in all other states and territories, we shall find that the Pennsylvania companies have to pay to other states nearly or quite as much as all of the outside companies pay to Pennsylvania. What then, does Pennsylvania gain by this enormous tax so long as the fact appears that directly or indirectly the entire amount is a burden upon the policy-holding and tax-paying citizens alone?

There is no more firmly settled principle of political economy than the fact that a tax laid upon any particular thing of common use must eventually be paid by the consumer.

The greed for taxing insurance companies has spread like a contagion, especially among these states which have few or none of their own to tax A tax which will reach the strong box of a foreign insurance company is one of the most popular propositions with which the modern Solon has to deal. The older states have taught the younger how to do it, and they have not been slow to learn.

Five states have already gone far ahead of New York in this field of taxation, to wit:

Pennsylvania	$818,408
Massachusetts	628,699
Connecticut	532,612
Wisconsin	388,448
Missouri	318,205
New York	274,113

New York discovered very early that a tax on premiums must in some way be added to the premium before it can be taken from it, and that the better policy is to tax the property insured rather than the cost of the insurance, which gives the property itself a very much higher taxable value than it would have without it.

Repeated conflagrations have often demonstrated the precarious character of investments in city buildings without protection by insurance. If full protection increases the value of city property by one-third or one quarter of its market value, then the tax on the insurance premium, which gives it that additional value, cuts no figure at all compared with the larger tax on the increased value of the property itself. Full protection at the lowest cost is the true policy. High taxes on premiums means high premiums with a lesser volume of protection. Competition will do all that is needful in keeping the premiums down, where there is no tax to hold them up.

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APPENDIX B.

CONTAINING WRITTEN COMMUNICATIONS, OR EXTRACTS THEREFROM, SENT TO THE COMMISSION.

CLASSIFIED ABSTRACT OF COMMUNICATIONS.

1.—Assessment of Land and Improvements thereon.

Real Estate Owners' Association, London, Ont.—By their Secretary, W. H. Ferguson, would not advise changing the present mode of assessment.

Board of Trade, Hamilton.—(See No. 1 *infra*)—Objects to terms of Sec. 38 (1) as to the method of estimating the value of land, and complains of unequal valuation.

Board of Trade, Ottawa.—Suggests assessment of land at its "full value fairly and fully established." Improvements to be assessed at not more than seventy-five per cent. of their actual cash value

Town Council, Cornwall.—Adopt the views embodied in the report of sub-committee of the Municipal Conference (see No. 2.), adopted at a meeting held in Hamilton on 6th September, 1899.

Isaac Feiran, Clerk of Municipality of Chapple, Rainy River District.—In the interest of settlers in new districts, suggests that real estate should be assessed at a uniform rate where it is of a uniform character and that improvements be not assessed. "A settler cannot improve his property without enhancing the value of his neighbour's property, who may not be adding any improvements, so that the tax falls on the industrious, though the unimproved land may be capable of equal development. Many settlers on bush farms only make a bare existence out of their farms, while much land is held by speculators When the time arrives that the timber becomes valuable, the unimproved lands in Muskoka and Parry Sound are worth more than they would be if stripped of their timber, and the industrious settler who has destroyed his timber to improve his land is at a disadvantage in developing his farm, while he increases the value of his neighbour's land, who has done nothing."

R. Kimber Johns, Gravenhurst.—(See No. 3)—Taxation of land and improvements should be viewed from the point of the use and non-use that is made of each parcel. Suggests amendment to sec. 28 (1) by providing that real and personal property be assessed at the fair value, having reference to the assessment value of similar property used for a like purpose in the immediate neighbourhood, with the position that they stand, and the use for which they are at the time of assessment put, and that Assessors' Oath (Schedule E) be altered to a like effect.

In towns and cities an assessment at two-thirds of the yearly rental would be a fair basis for assessment. All rented property should be assessed at two-thirds of its rental value per year estimated at eight per cent. interest.

Secs. 29 and 30 (1) should be amended by the fair value of land being assessed at the value that the land is worth for the purpose for which the owner has designated it.

His Honour Judge McWatt.—In a letter to the Attorney General refers to a difficulty in the assessment of oil lands—lands worth $9,000 being assesessed for $240 as mineral land under Sec. 28 (2). (See No. 4.)

R. G. Barrett, Toronto.—Letter objecting to the mode of assessing property held under lease at a ground rent. (See p. 426 and No. 24 in Appendix A.)

A. H. Marsh, Q.C., Toronto.—Letter respecting the mode of assessment of lease hold property, the fee of which is in the Crown. (See p. 429 and No. 27 in Appendix A.)

G. S. Papps, Barrister, Hamilton —(See No. 5)—Suggests the abolition of taxes on personal property and that land only be taxed.

Citizens at a meeting, Hamilton —(See No. 6)—Submit a memorial in favour of the taxation of land values only, or local option in different municipalities as to the basis of taxation.

Alexander Poe, Cobourg.—(See No. 7)—Suggests exemption of all buildings, improvements and personal property, and the assessment of land values only.

County Council of Carleton.—Submit a memorial to the Commissioners to have the Assessment Act amended so as to allow Township and Village Councils to have their assessment made only once in three years, at their option. Refer to the analogy of county assessments under section 310 of the Municipal Act.

Township Council of Fitzroy.—Resolution of 21st November, 1900, that the Assessment Act should be amended so that in rural municipalities the assessment should be made once in three or four years instead of annually ; and that the object of the Assessment Act would be as well obtained in this way, and would save considerable expense.

S. V. McCully, B C.L., Cedar Springs —Suggests that the assessment in rural municipalities is not now made at the most favourable time of the year. . . . "Why should the assessor value the property under natural concealments and disadvantages? Would it not be better to have the assessment made in the month of July or August than in March or April? How can the economic principle of income have the same weight in the consideration of the assessor in viewing the lands of an individual or a community with the crops on them, or without the crops? Again, often the most fertile lands are covered with water in the early spring."

Township Council of North Easthope.—(See No. 8)—Resolution in favour of biennial or triennial assessments and a change in the time of assessment to June or September.

2.—Assessment of Merchants' Stocks-in-Trade.

R. Kimber Johns —(See No. 3)—In case of manufacturers' stocks (be instances lumber firms), the amount of indebtedness should not be deducted. The same as to merchants' stocks.

Isaac Feiran.—"Merchants should be assessed for all goods they hold in stock paid for or not."

Thomas L. Lindop, Assessor, St. Thomas.—In a letter to Mr. K. W. MacKay, favours abolition of exemption of debts in assessing merchants' stocks.

County Council, Elgin —Resolution that the stock-in-trade and other property of merchants, mercantile firms, and mercantile corporations should be assessed on the same basis as farm property.

Board of Trade, Ottawa —That merchants' stock should be assessed on the basis of the percentage (say 7½ per cent, or whatever may be considered a just figure) on the rental value of the building and premises occupied.

F. S. Spence —(See No. 9)—Memorandum in favour of a tax on rental values as a substitute for taxation of mercantile stocks.

3 —Assessment of Companies Operating Public Franchises.

Board of Trade, Ottawa.—Recommendation that a tax be levied on revenue. "Such companies should be dealt with in the matter of taxation in a manner somewhat out of the ordinary, and the recommendations as to a revenue tax seemed to be the most equitable."

Real Estate Owners' Association, London.—By their Secretary, W. H. Ferguson—That street railways, telegraph, telephone companies, etc., etc, be assessed at their cost value as a going concern.

4.—Exemptions from Taxation.

R. Kimber Johns.—(See No. 3)—That exemptions under Sec. 7 (1) to (23) remain as now enacted except clause (3), which should be made clearer, and enact "that the residence of a minister while so used is exempt," and clause (24) should be strictly

limited to indebtedness on the property assessed, not debts owing on goods for which payment has been made to the assessed, and not settled for with his creditors, and that there be no exemption for any unpaid purchase money, either of real estate or stock of goods

Township Council of North Easthope.—(See No. 8.)—Resolution, "That improvements such as farm buildings, planting of shade and ornamental trees, etc., be exempt from taxation, and a system something on the single tax lines be adopted"

Board of Trade, Ottawa.—Recommendation. "The unanimous opinion was that as a matter of principle all property should be taxed"

Real Estate Owners' Association, London.—By their Secretary, W. H. Ferguson,—That all exemptions on land be abolished.

W. H. Lockhart Gordon.—(See No. 10.)—Letter advocating the continuance of the exemption of incorporated seminaries of learning.

5. Assessment of Personal Property and Income.

Real Estate Owners' Association, London.—By their Secretary, W. H. Ferguson,—That income tax be levied where earned.

Thomas N. Lindop, Assessor, St. Thomas.—That merchants, millers and produce dealers should be assessed on their capital invested the same as other business investments

John Idington Q.C., Stratford.—Letter respecting the assessment of commercial travellers and agents. (See No. 26 in Appendix A).

Bruce, Burton & Bruce, Solicitors for the Canada Life Assurance Co., Hamilton.—Respecting taxation of Life Insurance Co's. (See No. 18 in Appendix A.)

6. Powers and Duties of Municipal Officers, in the Making of Assessments and Collection of Taxes

S. V. McCully, Cedar Springs.—(1) Assessors should be appointed for a term of several consecutive years. "A new man is generally appointed every succeeding year, and the work is not as well done as if the assessor was in office several years and gained by practice a wider observation and sounder judgment."

(2) The assessor besides making a return of the assessment roll should also make a report to the Council in his work, and as to any advance in the mode of assessment or difficulties he has had to contend with. "Thus public attention would be drawn to it and public opinion formed regarding it."

R. G. Barrett.—As to abatement of taxes on vacant properties. As to the high rate of the school tax owing to the attempt to give more than a common English education—(See No. 24 in Appendix A.)

Board of Trade, Hamilton.—(See No. 1.)—Suggestions as to the constitution of Courts of Revision

R. Kimber Johns.—(See No. 3.)—More information should be given the assessor than is now usually given. To a large extent the assessment is based on the assessment of the previous year. This should be changed, and a notice under Sec. 47 now not compulsory should be made compulsory in every case

Suggests the amendment of Sec. 13 in accordance with this suggestion providing for the delivery of forms to each taxable person, which he must fill in and so assess himself.

The assessment roll when returned by the assessor should be published in abstract form (for an example see No. 3) in the local newspapers, either in whole or in parts, week by week, until the whole is published, when an appeal should be made direct to the Judge and the municipal Council as a Court of Revision should cease.

N. Robertson, County Treasurer, Bruce.—(See No. 11) calls attention to Sec. 155 (2) which is differently interpreted in different Counties. Some County Treasurers understand it to mean that after rendering the account mentioned as shown in their books their duties in collecting the arrears cease, and they therefore mark out of their books all taxes shown in said return of account. The responsibility of collecting being transferred to the officials and to local municipalities

Others referring to Sec. 160 (2) consider that the duties of the County Treasurer are continuous till collection is effected, and that local officials when making collections

of arrears (as in Sec. 155 (2) and (3), Sec. 156 and 171, do so as sub-officials responsible to the County Treasurers.

Referring to Sec. 182 suggests that some provision be made for payment of the extra expense incurred in conducting tax sales in the district away from the County Town.

Referring to Sec. 184 (3) suggests an addition to the clauses directing some stated way by which an effort shall be made to sell lands purchased by the municipality at tax sales.

Re Tax Sale Titles—suggests an extension of time for redemption and an increasing rate of percentage to redeem.

Board of Trade, Ottawa.—Recommendation that the law as it at present stands be amended so as to provide that realty taxes be chargeable to or against realty only. As regards the collection of personalty taxes, the present provision of the Statutes are regarded as reasonably satisfactory.

John Tytler—Reeve of Rockland.—Recommendation as to the last clause of R. S. O. c. 224, s. 8 (4) as follows: "I would recommend that the last clause of sub section 4, section 8 of chapter 224 R. S. O. be struck out, which reads: "And the Court shall equalize the whole assessment of the County." Having had over 30 years' experience of municipal matters, this part of above section has twice affected these Counties of Prescott and Russell.

"I would advise that where a township or townships appeal that they are too high "equalized, the Court may either reduce or affirm same as on appeal of a ratepayer to a "Township Court of Revision. Then if found that the decision of the Court reduced "the County equalized sum below the amount assessed, that the Clerk add a percentage "to bring said sum equal to assessed amount."

7. Local Improvements.

Board of Trade, Ottawa.—Recommendation that the proportion of local improvement taxes to be paid by cities and towns should not exceed 25 per cent.

Board of Trade, Hamilton.—Recommendation as follows: "(1) permanent improvements such as road-making not including sidewalks and repairs thereto, should be at the charge of the community in general and should be included in the general assessment.

(2) The present local improvement Act, as applied to new cement sidewalks seems a just and fair one—the corporation paying 60 per cent., and the owner 40 per cent, of the cost of same. Repairs, however, should continue to be borne by the city and not by the individual whose property adjoins such walks.

(3) All road-making and improvements thereto, should radiate from the centre of the city where it is most required, and where the general public would be benefited most. The same principle should apply also to the laying of sidewalks, thus obviating the scattering of work in numerous directions and isolated sections, adding greatly to the cost thereof.

We recommend that this work should be done entirely by the city engineer, and carried out by him in the best interests of the municipality and where the work is most required. He should not be subject to interference in the performance of his duty and the ward foreman should be effectually subject to the authority of the engineer so that local pressure may be removed and the best interests of the municipality thereby served.

Real Estate Owners' Association, London, by its Secretary, W. H. Ferguson—Suggests that instead of advertising local improvements a registered letter be sent to each property owner interested, notifying him of the intention of the Council to construct same.

No. 1.

Report of Sub-Committee to the Board of Trade of the City of Hamilton.

Gentlemen,—The sub-committee appointed to consider the question of the assessment of lands, and the improvements thereon, respectively, beg leave to submit the following report:—

In the early history of this Province and under provincial management a system of local assessment for the construction of local works, chiefly confined to roads and bridges,

was established, and such machinery as was absolutely necessary was provided, and was of a simple character.

In 1841 district municipal councils were appointed and authorized to make by-laws for the making, maintaining and improving of roads, bridges and public buildings, the property to be valued at such rates as the existing laws prescribed, provided, however, that the assessment should not in any case exceed two pence in the pound of the assessed value.

This system continued until 1849, when the Legislature of the united Provinces passed a measure which may be regarded as the basis of the present system. Subsequently, so far as certain named towns were concerned, boards of police were created, and were authorized to levy an assessment annually, not exceeding two pence in the pound, the money to be expended, amongst other things, in water, lighting, paving, flagging and repairing the streets.

The basic principle in respect of assessment for purposes of taxation, has, except as to a few of the earlier years, always been the actual cash value of the real estate and a maximum limit to the rate of taxation.

From inquiries the committee have made, it has been ascertained that upon this continent, with the possible exception of Pennsylvania, improvements have always been added to and considered a part of, the real estate, for the purposes of taxation.

In Great Britain municipal and local taxation of all kinds is borne by real estate exclusively.

Parts of the clauses in the present Ontario Assessment Act relating to the valuation of real estate read as follows :

"Except in the case of mineral lands hereinafter provided for, real and personal "property shall be estimated at their actual cash value, as they would be appraised in "payment of a just debt from a solvent debtor."

"In assessing vacant ground, or ground used as a farm, garden or nursery, and not "in immediate demand for building purposes, in cities, towns or villages, whether incor- "porated or not, the value of such vacant or other ground shall be that at which sales "of it can be freely made, and where no sales can be reasonably expected during the "current year, the assessors shall, where the extent of such ground exceeds two acres "in cities and ten acres in towns and incorporated villages, value such land as though it "was held for farming or gardening purposes, with such percentage added thereto as the "situation of the land reasonably calls for."

"Such vacant land, though surveyed into building lots, if unsold as such, may be "entered on the assessment roll as so many acres of the original block or lot, describing "the same by the description of the block, or by the number of the lot and concession of "the township in which the same is situated, as the case may be."

"In such case, the number and description of each lot, comprising each such block "shall be inserted in the assessment roll ; and each lot shall be liable for a proportionate "share as to value, and the amount of the taxes, if the property is sold for arrears of "taxes."

"Where ground is not held for purposes of sale, but is *bona fine* enclosed and used "in connection with a residence or building as a paddock, park, lawn, garden or pleasure "ground, it shall be assessed therewith, at a valuation which, at six per centum, would "yield a sum equal to the annual rental at which, in the judgment of the assessors, it is "fairly and reasonably worth for the purposes for which it is used, reference being "always had to its position and local advantages, unless by by-law the council requires "the same to be assessed like other ground."

In the United States the expressions made use of most generally are : "Cash value," "Fair cash value," "At its true value in money," "In ready money."

There appears to be some ambiguity in the expression, "as they would be appraised in payment of a just debt from a solvent debtor."

In New York the expression is almost identical with our own, with the exception that the word "they" is applied to the "assessors" instead of to "the real estate and personal property," the value there being fixed at a sum which the assessors decide to be the true value and at which they would appraise the same in payment of a just debt from a solvent debtor.

With regard to the valuation placed by the assessors on real estate in the United States, we believe, from information received, that in New York real estate is valued at about two thirds of the market value. In Boston, a little under its market value. In Vermont, from 60 per cent. up to its true value. In New Jersey, at about 50 per cent. of its value. In Connecticut, at about two-thirds of the market price. In Philadelphia, at about two thirds of the value, and this applies to other Cities and States.

The under valuation of Real Estate by the assessors appears generally to have been intended as an off set against the manifest and monstrous under valuation of personal property.

Through a change made in 1898 in the laws relating to the assessment of real and personal property in the State of Illinois, the assessment in Cook county (which includes the City of Chicago) has increased from twenty-one million dollars to seventy-three million dollars, for personal property, and from one hundred and fifty seven million to three hundred and two million dollars for real estate. The machinery there is somewhat similar to our own, namely, a Board of Assessors, five in number, and a Board of Review composed of three members. From the decision of the Board of Review there appears to be no appeal.

Writing upon this question, the President of the Chicago Board of Review says :

"The average citizen and taxpayer desires to pay his fair share, but, especially in "large cities, he has not had a fair chance to be honest in his tax matters. In other "words, long years of education under a vicious system taught him that he must pay a "large price for conscientiousness, and that the only deliverance from the burden of "inequitable assessment was through a schedule rendered on a basis of false values, or "through resort to the services of the tax-fixer and political 'hold-up man.'

"Two years under the new assessment methods have accomplished wonders in "banishing this almost compulsory dishonesty, and in making it possible for the mer- "chant, the business man and the property holder, to be as upright in his tax affairs as "in his dealings with private individuals. It is impossible for the citizen to be fair with "the State in the matter of his taxes unless he is protected by a law which will insure a "limit in the rate of assessment and by a Board of administration that will be absolutely "equitable and honest in all its decisions."

Under their law, the Board of Review has all the right possessed by the assessors, to make original assessments of property, and at the same time to give tax payers prompt relief in all cases where they establish over-valuation.

The Committee are of opinion that, while there is no necessity for any great change in the present system, so far as real estate is concerned, the Court of Revision should be given fuller powers, and should devote more attention to the greater and more important details and less to petty and insignificant reductions. In municipalities other than cities the principle of appointing one or more members of the Court outside and independent of the municipal Council might with advantage be adopted.

Further, the Courts in cities should be composed of independent, fearless, business men, who should be remunerated liberally, and who should aim at, and endeavour to bring about, a fair and equitable distribution of the burden of taxation, and should not be content with simply recording judgments in the cases which come before them. There would then be no necessity for the expense and trouble of an appeal to the County Judge. What has been done in Chicago can proportionately be done in this Province if the matter is approached and handled in the right way.

Respectfully submitted,

J J. Mason, Chairman.
Wm Strong,
John Billings
} Committee.

Hamilton, 12th November 1900.

No. 2.

REPORT OF SUB COMMITTEE TO THE MUNICIPAL CONFERENCE AT HAMILTON IN SEPTEMBER, 1899.

HAMILTON, 6th Sept, 1899.

To the Chairman and Members of the Municipal Conference:—

The sub-committee respectfully submit for your approval the following resolutions drawn up in pursuance of the instructions of the Conference.

1. That in the opinion of this Conference the Assessment Act should be so amended as to distribute the burden of taxation more equally, and with this end in view, the assessment of personal property should be made without regard to the debts owing on account of it.

2. Provision should be made in the Assessment Act that real property belonging to or in the possession of any person or incorporated company, and extending over more than one ward in any city or town, may be assessed together in any one of such wards at the option of the assessor, or that the assessment of the property may be apportioned amongst two or more of such wards in such manner as he may deem convenient, and that in either case the property shall be valued as a going concern or as forming part of a going concern.

3. The personal property of incorporated companies, other than chartered banks, should be liable to assessment to the same extent as that of any private individual or partnership, and sub section 2 of section 39 of the Assessment Act should be amended accordingly.

4. No sale of lands for taxes in any city or town should be invalid by reason of there having been goods or chattels within the county, belonging to or in the possession of the person assessed for the lands, or goods or chattels upon such lands, liable to seizure for the taxes, and of no levy by distress having been made upon any such goods or chattels for the payment of taxes due in respect of the lands.

5. That representatives of city and town municipalities should be appointed to attend before the Committee promised by the Provincial Government to consider and discuss the question of the turn-over tax or business tax which was brought before the Municipal Committee of the Legislature last session.

6. That for the purpose of urging upon the Legislature the changes in the law, which this Conference deems desirable, a Municipal deputation should wait upon the members of the Ontario Government at some time within a month before the opening of next session, when the ministers would have leisure to hear and consider the matters so brought before them.

On behalf of the sub-committee,

F. MACKELCAN.

Moved by F. MacKelcan, Q. C., Hamilton, seconded by Mayor Johnson, Belleville—

That the report of the sub committee be adopted. Carried.

No. 3.

LETTER FROM R. KIMBER JOHNS, GRAVENHURST.

To the Honourable the Chairman and Members of the Ontario Assessment Commission:

Gentlemen,—I ask to be permitted to offer in writing a few remarks respecting municipal taxation, having had experience for nearly fifty years in such matters both in England and in Ontario.

To get at a fair assessment more information should be given to the assessor than is now usually given in Ontario. To a large extent the assessment is based on the assess-

ment of the previous year. This, in my idea should be changed, and the notice under sec. 47 that is now optional for the assessor to require the person to be assessed to give him should be made, as in England, compulsory for every person to give, and sec. 13 should be amended by commencing as follows :—

"Sec. 13. (1) Every assessor shall within (10) days after the date appointed by this Act for the commencement of his duties deliver, or cause to be delivered on every person liable to be assessed and residing within the limits of his assessment authority a notice, and shall send by post to any non-resident whose name and P.O. address is known to the said assessor, a notice, such notice to be printed on good writing paper and shall require the person to be assessed to give full statement of the value at which he estimates his several items of real and personal property, income and his stock in trade and chattels used in business, if a merchant, manufacturer or trader, and the amount of any exemption by under a By-law of the municipality, and only taxable for School Taxes. Such notice may be in the form" (see form A herewith) "and shall state a date upon which the person to be assessed must return the notice duly signed and completed unto the assesssor, default of so doing will render such person liable (if a resident) to the penalties under section 50, part 2, also the words in section 47 lines 3 and 4 "if required by the assessor (or by one of the assessors if there be more than one)" should be omitted and word "assessors" in 3rd line in the singular not plural."

Until this is done a quantity of personal property, machinery and stock in trade will continue to be under-valued to the injury of owners or real estate, for the taxation that should fall upon the unassessed chattel property has to be made up upon the real through the higher rate per dollar having to be raised.

The taxation of land and the improvements should be viewed from the point of the use or nonuse that is made of each parcel. In townships and rural districts the actual value of the land can be easily ascertained from the amount that land sells for cash in those neighbourhoods. It is with the improvements that the difficulty lays. The provident thrifty owner that works and improves his land and puts up good buildings has to not only pay for his provident thrifty habits by increased assessed value being put on his property, but is also adding to the value of his slovenly neighbour's property that is at the same time depreciating the selling value of his own by the proximity of the unimproved lot. The doubt that has been thrown over the meaning of section 28 (1) could be removed by the assessor, being changed to "assess real and personal property at a fair value having reference to the estimated value of the similar property used for the like purpose in the immediate neighborhood, with the position that they stand and the use for which they are at the time of assessment put." And the assessor's oath (Sch. E) should be altered to the like effect.

In towns and cities where there is much rental property the English system of assessment at two thirds of the yearly rental of each parcel would be a fair basis for assessment of such property, for in some towns the rents are far higher than the assessed fair value of property could warrant. This property that at fair value would be sold for $300 rents for $5.00 per month, or net interest at from 12 to 15 per cent. All rented property should be assessed at $\frac{2}{3}$ of its rental value per year estimated at 8% interest, so that a $5.00 per month house would be assessed for $500 without reference to its intrinsic value, and the municipality would benefit from the enhanced rental somewhat as should be, and when such property becomes the owner's residence then the assessment should be reduced at the next time of assessment to the fair value of the property.

Sections 29 and 30 (1) should be amended by the fair value of such lands being assessed at the value that the said lands are worth for the purpose for which the owner has designated it. If for building lots, at that price for which they could be reasonably and fairly sold, if for farming and gardening purposes, at its fair value as such ; but no lots should be held as being for farming, gardening, paddock, park or pleasure grounds, or should be assessed as such when in the residental or business portion of any city or town, but only at the true value as buildings lots are assessed in the immediate locality. This will prevent the holding of unimproved property by owners for enhancing the price of same when the adjoining properties are improved and the neighbourhood built up at the expense of others than the owners of the unimproved lands.

Exemptions.

The exemptions in subsections 1 to 23 of sec. 7, Assessment Act may remain as now enacted except that sub sec. 3 should be made clearer that the residence of a minister belonging to any religious body while so used is exempted.

Subsection 24 should be amended. As it now stands it is unfair to owners of real estate who have no exemption for any unpaid purchase money, but if any portion if the personal property is exempted it should be strictly for indebtedness on the property assessed, not for debts owing by the assessed on goods, etc., for which payment has been made to the assessed and not settled for with his creditors, and even the exemption should be limited.

When I was assessor some years back I asked the leading merchant to give me a statement under now sec. 47. This he refused or neglected to give me. Having had considerable experience in general stocks in England as a Bankruptcy Accountant, I estimated the stock to be worth fair value $13,000, and entered that sum as the amount to be assessed. This coming to the knowledge of the merchant he got the Reeve of the municipality to see me. The result was that at an interview the merchant acknowledged that the amount of $13,000 was the amount of his last stock taking and wished to know which of his clerks had given me the information. He also said that he was indebted $10,000, and this amount was allowed him, and his assessment reduced to $3,000 only. Afterwards I found out that the larger portion of the $10,000 he claimed to be owing on his present stock was really for old balances of accounts for which he held goods, book debts or notes, and that not over $4,000 to $5,000 was really owing on his stock, so that another merchant whose stock was estimated at $2,000 from which was taken $600 for debts thereon was paying a larger amount of taxes than he rightly should, as the rate per $ was raised by the non assessment of the other merchants sum total $5,000 or $6,000 less than it should have been. In justice to all parties there should be no exemption for unpaid purchase money either of real estate or stocks of goods, or for any other account.

In the case of manufacturer's stock, why should there be any exemption on these. At the request of a number of poorer ratepayers in my own where the usual rate per $ has been for years 33 to 35 mills. I appealed on their asking that four lumber firms should be assessed only for School Taxes (as per section . . Public School Act.) At the Judges' Court of Appeal, each of these four lumber firms put in affidavits or personally made oath that they were indebted on their stocks of lumber for larger sums than the value of the stocks. The Judge, rightly according to the present law, had on this evidence to decide the appeals against me. The assessment of these stocks only for school purposes would have taken off 4 or 5 mills from the rate, and if, as they should have been charged for the whole municipal and school taxes, the 35 mill rate which this year is charged would have been brought down to 24 mills to the great relief of a large number of small property owners. Yet these millionaire lumbermen for the sake of the saving of a few dollars readily declare themselves insolvent, and cast the burden of a large portion of these taxes on their humbler fellow citizens.

Whilst on the question of real estate and personal taxation no officer of the corporation should have the protection of the law unless he can show that the corporation and its officers had done *all* the duties required af them by the Act, especially those for the collecting of taxes prior to sale of land for arrears of taxes, and the warrant of sale should give dates of notices and that the various conditions of the assessment Act had been done and observed by the Municipal Officials.

The assessment roll when returned by the assessor should be published in abstract form (see B) in the local newspapers either in whole or in parts week by week until the whole is published, and appeals should be made direct to the Judge in the same manner as Value List Appeal is now made, and the Municipal Council as a Court of Revision should cease. By these means the taxpayers would get a fairer and more equal assessment. The publishing of the list would enable persons to know the state of the various assessments, which is now only between the two covers of the assessment roll, and the Judge would have no personal feeling as to appeals.

Yours truly,

R. Kimber Johns.

"A"

STATEMENT BY TAXPAYER

Name in full	Religion
Occupation	Age	P.O.

Real property.		Acreage.			Value.	Owner, tenant or occupant.	If tenant or occupant give name and P.O. address of owner.
No. of Lot.	Str. or Con.	Built on.	Cleared.	Bush or Vacant.			

Machinery fixed in buildings on		(Chattels Real) Value.	Stock in Trade and Chattels used in Business.		
Lot No.	Str. or Con.			Value.	Exemption for debt.
				$	
			Stock of goods		
			Machinery		
			Rigs, horses, etc.....		

Other Personal Property.	Value.	Amount of last year's Taxable Income.

Dogs.	Bitches.	Persons in Family.	Males 20 to 60.	Children School Age.		
				5 to 8.	8 to 14.	14 to 21.

During the past Year.						Statistics.			
No. of Cattle.	No. of Sheep.	No. of Hogs.	No. of Horses.	Births Registered.	Deaths Registered.	Woodland.	Acres of Swamps, Marsh or Watered.	Orchard or Garden.	Fall Wheat.

Name of persons employed earning over $700 per annum

Property not entered above subject to School taxes only

I hereby certify the foregoing Statement to be full and correct of all my property (*or* property under my charge as) liable to taxation for Municipal and School purposes, and the statistical statement under the Assessment and School Acts.

Dated at the day of A.D. 190 .

Signature of Assessed.

If person to be assessed cannot fill up this return the person actually doing so will sign as witness.

Signature of Witness.

"A"

ASSESSMENT NOTICE (*on back of the preceding*).

For the year

Municipality of

Mr.

Take notice you are required to fill in all the blanks of statement on other side for all property for which you should be taxed, and give such statistical answers required by the Assessment Act.

If you are (a) Agent for person out of the Municipality or (b) Assignee of any estate, or (c) Executor or Administrator of any property a return on a sheet separate from your own must be made by you in the name of the persons for whom you are, (a) Agent, (b) Assignee or, (c) Executor or Administrator.

All returns must be delivered to me properly filled up and signed on or before default in your doing so renders you liable to a fine of $20 and costs, or for knowingly stating anything falsely to $50 and costs.

Assessor.

Residence or Post Office

"B"

ABSTRACT OF ASSESSMENT ROLL FOR CITY OF TORONTO.

Ward 1, 1901.

No. on roll.	Name.	Occupation.	For Municipal and School Taxes.				Total.	Total liable for School Taxes only
			Real Estate.	Chattels real.	Trade Stock.	P. Prop. & Inc.		
1	Ample, Adolp.	Gentleman	10,000	.. ..	.....	3,000	13,000	
2	Ball, John	Butcher	2,000	... ...	300	.....	2,300	
3	Closhier, George.. ...	Manufacturer ...	3,000	1,000	1,000	.... ..	5,000	3,000
4	Drugget, James	Merchant	6,000	....	10,000	300	16,300	

No. 4.

LETTER FROM HIS HONOUR JUDGE MACWATT.

SARNIA, Ont., 28th Aug., 1900.

HON. J. M. GIBSON, Q.C.,

Attorney General, Toronto.

DEAR SIR:—As I notice a commission with reference to the Assessment Act has been appointed I desire to point out what I consider a defect which came under my notice a few weeks ago.

In the Township of Sarnia a firm we will call Smith & Jones, were assessed for $1800, on 12 acres of land on which were 20 oil wells with the necessary pumps, &c., an engine, boiler, houses, &c. Each well was sworn to cost from $300 to $500, and it was shown an offer of $9000 had been made for the property three years ago. The appellants claimed it came under R.S.O. 1897, c. 224, s. 28, subsec. 2, the clause as to mineral lands. The effect of this would be that the land would be put at $240—land in that township being assessed at $20 an acre. The net income was cut down from several thousands gross to $850. Then Smith & Jones each claimed $400 exemption on income and the assessment of what three years ago was a $9000 property and to-day I do not suppose could be bought for $6000 would be $290. Again these oil well properties are hard on the roads as the vehicle conveying the crude oil to the refinery are heavy and cut them up badly. I refused to cut down the assessment. Since then I have made enquiries as to what has been the practice in the Township of Enniskillen and Town of Petrolia where there are hundreds of such wells. Some say they act under subsec. 2 of sec 28, and others not. One producer, however, said that the clause was passed by the Legislature before oil production had reached its present properties and while he thought it would be wrong to assess at the full value he admitted that it was ridiculous to assess under subsec. 2, sec. 28. It is not fair to municipalities to compel them to assess under the above section, and I consider this a matter which should be looked into by the Commission.

Yours faithfully,

D. L. MacWatt,

Co. J. L.

No. 5.

Memorandum by G. S. Papps, Barrister-at-law.

Hamilton, Ont., October 31st, 1900.

To the Chairman and Members of the Assessment Commission :—

* * * * * *

1. Municipal Taxation has for its object the raising of sufficient money year by year to provide for the necessary expenses and liabilities of the municipality.

2. Every person enjoying the benefit of municipal government should pay according to his *ability* for the advantages which he enjoys.

3. How to arrive at each person's ability to pay, is the problem under consideration.

4 The best method is that which is the simplest, and can be carried out by those appointed to that duty independently of those whose interest is opposed to giving the information required, and whose action is therefore likely to be antagonistic, and whose opposition is only limited by the elasticity of their conscience, of which they are the keepers, and which they are disposed to treat very leniently.

5. It is difficult to formulate any plan of taxation, or in fact any scheme for the benefit of any community, which will not in some way prejudicially affect a few who must suffer for the general good; obviously the best plan is that which benefits the greatest number at the expense of, or to the detriment of the least number in the community.

6. It is better that a few should legally enjoy the benefits of taxation without contributing thereto, rather than that so many should illegally enjoy those benefits without paying their proper quota, by reason of the facility of escape by negligent assessment or the difficulties of assessment, and more directly by evasion, equivocation, mental reservation, lying and purjury.

7. The only tangible, immovable, visible source of revenue is "land."

8. The buildings and other improvements on land are personalty converted nto real estate, and are liable at any time to be re-converted into personalty, by destruction by fire and the receipt of the insurance money, or to be eliminated from real estate by intentional destruction to escape taxation.

9. The assessment of real estate is simple and more simple still is the assessment of land.

10. The assessment of personal property and income is obscure, and depends largely upon the conscience of the party assessed, and I am of the opinion that in the absence of clairvoyance or other occult qualification in the assessors, which appears essential to the discovery of personal property, evasion, equivocation, mental reservation and even worse means are resorted to to evade taxation.

11. Mental reservation permits the individual to ignore the law, and to put his own interpretation upon what it is intended to mean, or what he thinks it should be, and is in fact a law unto himself; all that he may do or not do, or say or not say, in support of his theory, will be found when applied to the law as it exists to partake largely of evasion, concealment and untruthfulness, to put the matter in the mildest way.

12. The morality of most individuals (otherwise estimable citizens) stops short at defrauding the customs, and evading taxation.

13. Every dollar that is saved by any individual by imperfect assessment has to be paid by others who are possibly already assessed for their proper proportion, and the result is that some bear the burden of others in addition to their own.

14. It is almost impossible to arrive with any certainty at the assessment of personalty; any plan that might be devised with any hope of success would be so inquisitorial as to be most obnoxious, and after all it would fail to discover everything liable to assessment: it would lead to so much loose swearing that it is to be avoided if possible.

15. It will be found that as a general rule the owners of real estate are to much the same extent interested in personal property, and that but few would be injuriously affected by the assessment of land only: a few might suffer, and a few might benefit, and this is inevitable and will be difficult to avoid in any plan of assessment.

16. Land, *per se*, in a city, is useless; it requires the expenditure of personal property to make it valuable; the land must remain, the personalty may be removed, land owners should recognize this fact rather than object to the exemption of personalty, which is the only thing that gives any value to their land.

17. The income which every man earns by his profession or business is the equivalent, by popular consent, of the value of his services to the community; up to $700 such income is exempt, but the exemption should be extended to all incomes resulting from mental or manual work; every man in his proper social position having equal need of his income.

18. It may be assumed that the income (whatever the amount may be) is sufficient for the maintenance of the wage earner and his family, and to provide to some extent for the future; household effects being exempt, anything he may possess outside of or in addition to his income (including savings therefrom) may be looked upon as theoretically unnecessary, a surplus, the potentiality of living in greater luxury, or even without work, and it seems reasonable that all such surplus should be taxed upon some uniform plan irrespective of the shape in which it exists.

19. Each man invests his surplus according to his judgment; one will invest in land, estimating the immediate return in the way of rental, and the possible future value, and right here the first difficulty arises in taxing the surplus; it arises in the taxation of land, which of all things appears the most simple, but a man may have invested his $10,000 in land which is worth $20,000, giving a mortgage for the other $10,000 and it seems inequitable that he should be assessed for double the amount of his surplus, but as it is quite optional with the purchaser of real estate whether he will confine his purchase to the amount of his surplus, or by exceeding that amount subject himself to increased assessment, he has no right to complain; he accepts his position with his eyes open, and must be supposed to know his own business. In justice to the creditors of the municipality, it is necessary that the land should be assessed at its full value, as it is their only tangible security; the idea of assessing every man's surplus uniformly, however, in that way, fails at the outset; if, however, we accept the position of real estate as it is and apparently has to be, there is nothing to hinder the uniform assessment of money invested in personal property except the difficulty in discovering it, and that is insuperable.

20. If personal property could be as easily discovered and assessed as land, it is obvious that the assessment of each person's surplus *in the municipality in which he resides* would really do substantial justice to all; the investor in real estate, by restricting his investment to the amount of his surplus, would be on equal terms with those whose surplus was in personal property. The assessment of each person's surplus in

personal property should include everything in which he has a beneficial interest, such as stocks and shares in incorporated companies, notwithstanding that the securities might be in the names of trustees or agents. Incorporated companies are merely the aggregation of the surplusage of thousands residing in all parts of the Dominion, and many others out of it, and the assessment of individual owners of stocks in their own municipality should do away with the assessment of such corporations. Such assessment of corporations appears unjust, inasmuch as the municipality in which said corporations have their headquarters enjoys the benefit of the assessment of thousands who have no interest in that municipality, and whose surplus should be assessed in and contribute to the revenue of the municipality in which the beneficial owners live, and the benefits of which they individually enjoy.

As this scheme is utopian and impossible of realization, and I can see no safety in half measures, I therefore advocate very strongly the localization of the assessment, and the raising in each municipality of the taxes upon the land within its boundaries, feeling assured that the end justifies the means, and that in no other way can taxes be levied which will do justice to all.

22. If, however, it is considered desirable to continue the assessment of personal property and income, I will ask you if there is any sense in the present system; to assess one man for $20,000 on real estate in which he has his $10,000 invested; to assess another man upon the interest only, who has his $10,000 invested in mortgage; to assess another man for the whole $10,000, who is so unfortunate as to have his surplus in money or in securities other than those of which the dividends or interest only are assessable; to let another man who has his $10,000 in municipal debentures go free; to allow another to go free because his $10,000 is in the hands of a trustee or agent residing in some other municipality, (where it may or may not be assessed, and if it is, it enures to the benefit of the municipality in which such trustee or agent resides) may be the result of some deep scheme of equity which I am not capable of understanding, but as the Assessment Law now stands, four or five persons possessed of an equal amount are legally assessed or not assessed in four or five different ways, and pay or escape the payment of taxes upon amounts varying from $20,000 on land to nil on municipal debentures.

23. It was my intention to prepare some tables comparing the assessment in the principal cities for some years past, but after a good deal of study I found that while such figures might be suggestive, they would be in no way conclusive; I therefore content myself with a comparison of the assessment just completed in Toronto and Hamilton.

	Total Assessment.	Percentage of Personalty.	Amount of Personalty.
Toronto,	$128,954,144	10.9481	$14 118,060
Hamilton,	26,515,140	14.2965	3,790,760

	Population.	Personalty.	Amount per Head.
Toronto,	199,043	$14,118,060	$70.92
Hamilton,	52,665	3,790,760	71.97

To take the ratio between real estate and personal property, as a fair test (which possibly it is not), it will be seen that the proportion of personal property in Hamilton is far larger than in Toronto; the personal property and income in Toronto to be equal in ratio to Hamilton should be raised from $14,118,060 to $18,435,929, a difference of about $4,317,944, which in that view apparently escapes assessment. If we take population as a test (which possibly it is not), it will be seen that while there is but little difference between Toronto and Hamilton, yet the shewing is in favour of Hamilton as being the most wealthy. Now, as I look at the matter, Toronto is the headquarters of many very large monetary institutions—banks, loan societies, trust and insurance companies, *et id genus omne*, who hold as trustees or agents the surplus of thousands living in other municipalities. It is also the head quarters of the law courts, and many other public institutions, educational and otherwise, and in my opinion should have a very much larger proportion of personal property and income than Hamilton, which is very largely a manufacturing city, with thousands who do not appear on the assessment roll as

owners of real estate or personal property, and whose income does not exceed the limit of $700, yet the contrary appears. As I before remarked, the above figures are in no way conclusive, as each person may have his own opinion of the matter, which is as satisfactory to him as mine is to me. To me such figures indicate clearly the fallibility of the assessment. I believe that if all the personal property and income legally liable to assessment in Toronto could be reached, the amount would be largely in excess of even the $18,435,929 which is the equivalent of Hamilton on the basis of the amount of real estate, and I do not for one moment suppose that all that should be assessed in Hamilton is ever reached by the assessors. I do not in any way intend to disparage the efforts of the Assessment Commissioners in Toronto and Hamilton to reach all property liable to assessment; the smaller the city the easier probably is the quest, but it is simply an impossibility.

GEO. S. PAPPS.

No. 6.

RECOMMENDATIONS OF A MEETING OF CITIZENS, HAMILTON.

HAMILTON, November 14th, 1900.

To the Ontario Government Special Commission on Assessment :—

GENTLEMEN :—

A meeting of citizens held here on the 19th October appointed a Committee to respectfully ask the attention of the Commission to the following facts :—

The proposition to exempt buildings, personalty and income, together with machinery and plant, from assessment, and to assess for purposes of municipal taxation land values only, is one which has on several occasions during recent years been brought to the notice of the Legislature by petitions from many parts of the Province, and for this and for other reasons, it is a proposition which it seems to us is well within the scope of the Commission.

The arguments in favour of such a change of system are briefly :—

1st. That it would offer a standing inducement to manufacturing and commercial industry and give uniformly and impartially that encouragement which is frequently sought and sometimes granted by way of special exemption to the few, to the relative detriment of others.

2nd. That it would similarly lead to heads of families becoming more generally home owners, as it would relieve these of much of the burden imposed on them by the present system.

A calculation based on the figures furnished by our City Assessment Department shows that to produce the same revenue which is now raised by a rate of 2 per cent. on land, buildings, personalty and income would require a rate of $4\frac{1}{4}$ per cent. if levied on land values alone.

The effect on the classes referred to is shown in the following representative assessments taken from the books of the Department :—

	Land.	Building.	Personalty.	Present tax.	Proposed tax.	Per cent of reduction.
Manufacturing	$ 2600	$ 4400	$ 3000	$ 200	110.50	45
do	4000	18000	35000	1140	170.00	85
Commercial	61000	39000	85000	3700	2592.00	30
do	31400	43600	50000	2500	1334.60	47
Residental	600	1200	.....	36	25.50	29
do	180	1020	.....	24	7.65	68

3rd. That it would still further aid the different classes of producers above referred to by making it unprofitable to hold land out of use and thereby make it easy for them to obtain sites at their value for use; speculative values being largely eliminated. In proof of this, it is only necessary to point out that the application of the $4\frac{1}{4}$ per cent. rate above referred to would advance the tax on unimproved land values by 112 per cent. of what they now have to pay.

4th. It would greatly simplify the work of assessment and by bringing it entirely within the range of the assessor, would do away with the fraud and unfairness which characterize the present system. "Land lies out of doors," and any unfairness in its valuation is easily noticed and corrected.

5th. It is the only system of taxation which imposes burdens where, and in proportion as, the benefits of municipal expenditure are conferred. While land values are primarily due to the presence and necessities of the whole people, it is evident that expenditure of public money, wisely and honestly made, will reflect itself in added land values. Other things being equal, the city which expends most in street improvements, fire and police protection, parks, and the many other forms which modern civic advancement takes, will attract the largest population, and sites in it, whether for selling or renting purposes, will show the most rapid advance in price. Land owners are not slow in exacting from tenants the full added value which attaches to their particular locations by reason of local improvements, and our present system is faulty in that it compels the tenant after submitting to the increased charge of the land owner, also to submit to an increased charge, for the same, purpose, on his personalty and income.

On the other hand, the value of buildings, and all other products of capital and labour is regulated by their cost of production. And this cost of production is as low—probably much lower—in a city where municipal outlay is high, as in a country district where it is relatively low, and hence it is plain that taxing these to create funds for public purposes is imposing a burden without a corresponding benefit.

We commend the above statement of facts to the consideration of the Commission, and respectfully submit that they are sufficient to warrant us in asking for such changes in the provincial law, as it least will permit of municipalities by a vote of the ratepayers, choosing their own basis of taxation.

E. S. Gilbert, (Accountant),
Jas. T. Barnard, (Manufacturer),
C. E. Whitcombe, (Clergyman). } Commitee.

No 7.

Memorandum from Alexander Poe, Cobourg, to the Ontario Assessment Commissioners.

Section 7 of the Assessment Act provides that all property in this Province (not exempt) shall be liable to taxation for all kinds of municipal expenditure.

Section 664 of the Municipal Act provides that land only shall be taxed for certain kinds of municipal expenditure. And exemption 16 of the Assessment Act, although only exempting certain kinds of persoual property, when used by certain parties, for a certain purpose, has had the effect in the townships of these united counties, shown by the following extracts from the assessment rolls of the adjoining townships of Hamilton and Haldimand: Haldimand real estate, $1,729,380; personal property, $750. Hamilton real estate, $2,104,910; personal property, $14,850. And the counties' council strikes their rate upon the equalized value of real estate only.

I have talked to many of the leading men of the townships about the peculiar way they have interpreted exemption 16, and I have never heard any opinion but one of unqualified approval. They say that they could not exempt certain kinds of personal property and not do an injustice, while by exempting all personal property of farmers they treat them all alike and all are satisfied. Those men further tell me that, as the selling price of a farm is determined by its productive capacity, their taxes are really a tax upon land value only.

The assumption of section 7 of the Assessment Act is that all kinds of property are equally benefited by municipal expenditure, but the evidence offered by the numerous and constantly increasing number of exemptions is that the assumption is a fallacy, and the discriminating favour shown by many of the exemptions makes a farce of the enforcement of section 7 as it now stands. For example, exemption 15 exempts farmers' products in transit and leaves all other products in transit liable to taxation; 16 exempts horses, cattle, sheep and swine, if their owner is carrying on a business of farming and

grazing, but taxes them if he is carrying on any other business, and leaves the grain and implements of the grain farmer liable to taxation; exemption 19 taxes the principal of money deposited in a bank, but taxes the interest only of money invested in bank stock.

But while section 7 of the Assessment Act assumes that all kinds of property are equally benefited by all municipal expenditure, section 664 of the Municipal Act assumes that land only is benefited by certain kinds of it. And I suppose it will be a part of your duty to endeavour to harmonize those two antagonistic sections.

I submit that the solution of the difficulty may be found in exemption 28 of the Assessment Act, which exempts household furniture from taxation, and that the only justification for that exemption is because household furniture and all other kinds of personal property and buildings pay in increased rent for any benefits it derives from municipal taxation.

I have heard it contended that as land cannot be burned or stolen it should not be taxed for fire and police protection. This is one of those half truths which is a whole lie. Can there be a doubt that if a portion of the business part of Toronto had no fire or police protection the ground rents of that portion of Toronto would be much lower than in the adjoining portions which had this protection, and if the owner of personal property and buildings pays for this protection in increased ground rents, why should his personal property and buildings be assessed for it, and his landlord collect for his own use the additional ground rent that this protection created.

If the principal embodied in exemption 28, namely, that personal property and buildings pay in increased ground rent for what benefit they derive from municipal expenditure, were extended to all municipal expenditure, assessment laws and assessments would become a very simple matter, but as long as personal property is assessable the trouble will never end. No legislators ever will be honest enough and wise enough to enact just laws for the assessment of personal property, assessors will never be wise enough to justly assess personal property, and all the citizens will never be honest enough to tell the assessors what wealth they have; and to tax the honest citizen and exempt the dishonest one, as we do now, is to offer a premium for dishonesty, perjury and fraud.

But there is a much stronger reason than the above why nothing but ground rents should be taxed, and that is because ground rents are the annual value given to bare land by the community.

The price of land, like everything else, is regulated by supply and demand, but while other things are multiplied and cheapened with the growth of population, land is a fixed quantity and ground rents must therefore increase with population. And the more intelligent, energetic and progressive the population is, the greater will ground rents increase. Individual effort cannot increase ground rents, but it can perhaps divert them from one locality to another. It is not impossible that Montreal business men diverted trade and therefore population from Quebec to Montreal, or that Toronto has diverted trade from the smaller towns of Ontario to Toronto, or that Eaton and Simpson have diverted trade and ground rents from King street to Yonge street.

As ground rents cannot be increased by individual effort, but are a product of the whole community, they are therefore public property, and this public property should be used for the public expenditure of the community.

And to allow private individuals to appropriate public property and replace it by taxing private property is a confiscation of private property.

ALEXANDER POE.

No. 8.

RESOLUTION OF COUNCIL OF TOWNSHIP OF N. EASTHOPE.

To the Assessment Commission, Parliament Buildings, Toronto:

GENTLEMEN,—Whereas the Municipal Council of the Township of N. Easthope is of the opinion that a change in the system of assessing farm lands in the Province of Ontario, is necessary, inasmuch as it is unfair to the progressive farmer, who spends his capital and labour in beautifying and improving his farm and is immediately taxed therefore, and at the same time enhancing the value of his neighbour's property, who invests his money in bank stocks and other securities.

Be it therefore resolved, that improvements such as farm buildings, planting of shade and ornamental trees, etc., be exempt from taxation, and a system something on the single tax lines be adopted.

If land values alone were assessed a bi-ennial or tri-ennial assessment would be workable, even though farm lands are changing hands every year, and the voters' lists can be attended to at a much less expense than an annual assessment.

We would also recommend that a change in the time of assessing farm lands be made, say the month of June for the current year, or September for the next year following.

Hoping these recommendations may receive your careful consideration, we remain

Yours very truly,

JULIUS COOK, Reeve,
Amulree P. O.

Township of North Easthope, Dec. 10th, 1900.

No. 9.

LETTER OF ALDERMAN F. S. SPENCE PUBLISHED IN OCT., 1897.

How should Mercantile Business be Taxed?

DEAR SIR,—

A matter of much importance to the business men of the City of Toronto is the method of assessing and taxing the capital invested in business. It is generally agreed that what is known as real property should be assessed at its actual market value. Investments in other forms are also taxed, but on a different basis. The principle adopted with a commercial business is that, in addition to the assessment made upon the real property occupied by the business, a so-called *personalty* assessment is made upon the estimated net working capital. A uniform tax rate is then levied upon both realty and personalty.

In opposition to this method it is argued that it is impossible to find the exact condition of a business without disagreeable inquisitorial proceedings, that by it a premium is placed upon misrepresentation, that it gives men who are not scrupulous, opportunities to evade taxation, thus making the city's revenue to that extent indefinite and precarious and that it encourages the running of business largely on credit, thus practically discriminating against the safest and most beneficial business. It is also urged that this method of taxation frequently imposes upon business men heavier burdens than in justice ought to be imposed, in view of the other expenditures involved in their business, and the benefits they confer upon the community.

In view of these representations the Ontario Legislature some years ago enacted legislation providing that Municipal Councils might abolish the plan of personalty taxation on any or all classes of mercantile business, substituting therefor the method of simply levying a tax-rate upon the rental value of premises occupied. The clauses of the Assessment Act conferring this authority are as follows:

36.—(1) "In the case of persons carrying on a mercantile business in a municipality, the council of the municipality may pass a by-law or by-laws for imposing and levying an annual business tax in respect of all classes of mercantile business, without classification, or any class or classes of mercantile business, provided that such business tax does not exceed seven and a half per cent. of the annual value of the premises in which the business is carried on; and the council may in their by-law classify different kinds of mercantile business and fix the business tax on the respective classes at such a percentage on the annual value of the premises occupied, within the limits provided by this section, as to the council may seem reasonable; and provided also that when a business tax is imposed the personal property belonging to the business, in respect of which the tax is imposed, shall not be liable to assessment or taxation otherwise.

(2) "For the purposes of this section the annual value of the premises in which the business is carried on shall be taken to be an amount representing seven per cent. on the assessed real value of the said premises."

This is what is generally known as a *business tax*, a better name for it would be a *rental tax*. It does not affect the taxation of the real estate occupied, but deals only with that part of our assessment that has hitherto been a source of much difficulty and dissatisfaction. It is the system now in operation in the important commercial city of Montreal, where it is warmly approved by both business men and civic officials.

It will be noticed that Municipal Councils may not only adopt or reject the system thus authorized, but also in their discretion may apply it to any specific class or classes of business, and may fix the rate to be levied, such rate, however, may not exceed a certain limit. They may adjust their taxation in the interests of the community and of the business affected, so as to make its incidence as free as possible from inconvenience to the public and from hindrance to trade.

Another form of business assessment and taxation that has been suggested is the ascertaining of the actual volume or turn over of business done during the year and the levying of a rate upon that amount. There is, however, no legislation authorizing such a tax, nor does the proposal at all get over some of the difficulties of the present system, already mentioned.

It is generally conceded that taxation ought to be in such form that it will (1) be as fair as it can be made to the whole community, (2) be easily and cheaply collected, (3) have as little as possible of burdensomeness in its incidence, and (4) encourage as far as is just any industry that may benefit the community. A little consideration will show that a reasonable business tax will meet these conditions much more readily than does the present system.

(1) The present personalty method is unjust. It taxes different lines of business unequally, and taxes unequally different parties in the same line of business. Taxation is to a certain extent a price paid by those taxed for certain services rendered by the municipality. From this standpoint equal services should be equally paid for. The city furnishes as much accommodation, lighting, drainage, fire protection, police protection, etc., to a stock of goods for which the owner owes, as to a stock which has been paid for. Why should Toronto exempt from burdens the property of men who live elsewhere, while heavily taxing its own citizens? The following illustrations of the injustice of the present method are taken from the Toronto tax collectors' rolls of the present year. They exhibit four groups of realty assessments and total tax bills. The members of each group are premises of nearly equal value, all in the central business part of the city, therefore all receiving about equal municipal services, but having varying personalty assessments, and therefore unequally charged for such services. To make the comparisons absolutely fair local improvement taxes are omitted:

	Assessed Value of Premises.	Amount of Taxes for 1897.
GROUP A.		
1. Wholesale Books, etc.....	27 900 00	1,252 50
2. Retail Clothing.....	30,900 00	605 53
GROUP B.		
1. Wholesale Dry Goods.....	49,500 00	2,578 88
2. Eating House.....	54,050 00	1,001 37
GROUP C.		
1. Musical Instruments	94.250 00	3,005 82
2. Wholesale Dry Goods	106,475 00	1,836 71
GROUP D.		
1. Hardware	157,238 00	4,437 36
2. Hotel	157,200 00	3,142 95

Many similar comparisons might be made. If payment ought to be in proportion to service the present plan is utterly wrong. The cost of a stock of goods, or the extent to which it is paid for, is not in any respect a measure of the value of each service. The extent and value of the premises served are a fair measure of that service, which may be fairly assessed and paid for by the rental tax plan.

(2) A rental tax could be levied and collected much more easily and cheaply than a personalty tax. To ascertain the amount due a simple calculation is all that is necessary. No special assessors need take time examining stocks, searching books or questioning employees. The trouble and expense of appeals against personal assessment would be

avoided. The value of the premises occupied being fixed, the rental assessment follows certainly and definitely. The work of assessors is simplified, business men are relieved from worry and anxiety, and opportunity for and temptation to fraud are at once abolished.

(3) The definiteness of the rental system makes it less oppressive than the present system. Business men know what to expect and provide for. It affords a means whereby mercantile business may be charged with only its fair share of public burdens. Once the just proportion is ascertained the system works itself, and must necessarily relieve those taxed of any unjust burdens that may now be imposed.

(4) The future prosperity of Toronto depends largely upon the development of its commercial interests. If other cities treat business enterprises more justly and more liberally they will attract business men, leaving Toronto side-tracked in the movements of trade. Already complaints have been made by business men, who have compared the conditions under which they must work in this city with those imposed upon business in other places. We are endeavouring to give special encouragement to manufacturing industries. Every argument in favour of such a course is an argument in favour of the encouragement of mercantile business also. If Toronto is to hold the commercial position she should have, her treatment of business men must be more rational and equitable than it is at the present time.

It is sometimes said that a rental assessment would prejudicially affect small traders who now escape the personalty tax. This need not be. No loose exemption system, subject to an assessor's pleasure, can be fair or beneficial. The result now obtained, if desirable and right, ought to be provided for with definiteness and equality. This can be done by taxing only the rental in excess of a certain amount, thus making the smaller business more certainly free from burdens, and treating large and small with equal justice.

If it is reasonable that a fixed income should be relieved of taxation up to a certain point, it is equally reasonable and even more desirable that a mercantile business should be similarly dealt with. Men whose success will benefit the whole community and who are straining every nerve and risking all they possess in efforts to achieve that success, ought to be treated with at least as much liberality as those who are living upon accumulated wealth or steady incomes derived from other sources.

The most important arguments in favour of substituting a business tax for a personalty tax may be summed up as follows: The change would (1) simplify assessment, (2) equalize taxation, (3) give the city a more definite and staple source of revenue, (4) give business more certainty of its position and liabilities, (5) remove inducements to misrepresentation and opportunities of evading payment of just obligations, (6) relieve business of annoying and undesirable inquisitions, (7) protect and assist those doing business on a smaller scale, (7) promote safer and more profitable business methods, and (9) generally strengthen, facilitate and encourage commercial undertakings, upon the success of which the prosperity of our city largely depends.

Believing that for the reasons above set out the present personalty tax system ought to be abolished, and that instead thereof there should be a reasonable business tax, so adjusted as to encourage commercial enterprise and rid us of annoying and ineffective assessment methods, I moved some time ago in the City Council for the appointment of a special committee to consider this question. The work of the committee was hampered by lack of information that would enable them to ascertain what result the change would have upon the revenue of the city. To secure such information the Assessment Department was instructed to ascertain, when taking the assessment of the present year, the actual value of the premises occupied throughout the city for business purposes.

This work is nearly completed. The committee will soon be able to resume consideration of this important subject. Being chairman of it, I would like very much to

learn the views of the business men of the city regarding the question, so that any steps taken may be such as will meet with public approval, and commend themselves to the judgment of all our citizens as well as of those most directly affected by a change, if a change is to be made. Any suggestion or information that you can send me will be gratefully welcomed and carefully considered.

Hoping for the kind assistance of your knowledge and experience in our inquiry, and with much respect, I remain, dear sir,

Yours sincerely,

F. S. SPENCE,
52 Confederation Life Building.

TORONTO, October 20th, 1897.

No. 10.

LETTER FROM W. H. LOCKHART GORDON, TORONTO CHURCH SCHOOL, ALEXANDER STREET, TORONTO, 26TH NOV., 1900.

The Hon. Mr. Justice Maclennan, Chairman Assessment Commission, Parliament Buildings, Toronto.

DEAR SIR,—I very much regret that, owing to my absence from Toronto, I was not able to attend the meeting of your Commission on Friday last, when the question of exemptions came up.

This corporation is very much interested in this question.

For the last ten years we have been carrying on a school in Toronto for the education of boys whose parents believe in religious instruction being made a prominent feature of the teaching in schools. In other respects our curriculum is slightly different from that of the High School and Collegiate Institutes. A copy of the prospectus I send herewith for your perusal.

At the end of the prospectus you will see a list of the boys who have been in attendance since the school was started. This will give you some idea of the class of citizens who send their boys to us.

The reason we started the school was because we could not get in any school then established exactly the kind of education we desired for our boys.

We have no endowment or Government assistance.

In order to establish the school and carry it on the proprietors have from time to time subscribed and paid some $11,000. This money was subscribed without any expectation that the proprietors would receive any dividend from the working of the school, and accordingly all money taken in has been expended in increasing the efficiency of the school.

I regret to say, however, that even with this we have not been able to pay more than very moderate salaries to our masters.

If taxation was now imposed upon us we should have to close up, for we could not increase the fees sufficiently to pay the taxes.

We have much difficulty in getting the parents to pay even the present fees, for as long as a certain class of education is free it is difficult to get people to pay for any kind of education.

Our parents argue that if they pay fees to our school they should be relieved from the ordinary school tax. As this, however, would undermine the principle of the public schools, although it seems a just request, we have not advocated it.

It seems reasonable, however, that if the Government or the municipalities will not give us the education we require for our children, and we are compelled to establish and pay for schools of a different kind to get what we require, we should not be compelled to pay a tax to the municipalities for what we ourselves provide.

If in order to get the education required certain parties have to establish and support schools at their own costs it seems unreasonable and unjust that in addition to the

school fees they should not only have to pay the ordinary school tax, but also a tax on those very schools which they have established with their own money, because the Government and the municipality did not think fit to give the education required. This tax being a tax not only for the ordinary purposes of the municipality but for keeping up the public schools, which from their inefficiency have caused these persons to go to the expense of establishing their own private and voluntary schools.

We claim also that these voluntary or private schools are a great advantage to the municipality, first, because it is always well to have different kinds of education in a community.

It is not good that all children should be turned out on the same plane.

It is decidedly in the interests of the municipality that there should be different styles of education, for this results in different kinds of development and produces different kinds of thought.

Secondly, were it not for these private or voluntary schools the municipalities themselves would have to establish additional schools.

I am not at present in a position to say accurately what is the number of pupils that attend these private or voluntary schools in the city, but I am within the mark when I put it down at several hundreds.

If it was not for these private or voluntary schools the City would have to erect several other schoolhouses at considerable cost. Why then, should the proprietors of these schools who take this burden upon themselves, and relieve the municipality, be taxed for so doing?

The ordinary schools of the country do not pay taxes, why then should these private or voluntary schools, which are not established for profit, pay taxes, when they save municipalities large sums of money annually by educating a large number of children which the municipalities otherwise would be required themselves to educate?

I need not dwell on the advantages to the City of being an educational centre. Large numbers of pupils are each year brought to Toronto for the purposes of education; these have to be fed and clothed and assisted in other ways. All of this must bring a great deal of business and profit to our citizens in different ways.

A tax, therefore on these schools that would close up any of them would cause far more damage to the City generally than any small amount collected could possibly compensate for.

It may be said that some of these voluntary schools are established for the purpose of gain. If this is the case there should be no difficulty in amending the law so that any profit made out of the carrying on of these schools by the proprietors should be the subject of taxation.

The object of my letter is to deal with the other class of schools, namely those that are established simply for educational purposes and without the object of any profit being derived.

If you desire it I shall be pleased to appear before the Commission and further explain my views on this important subject.

I am, Sir,
Yours obediently,

W. H. Lockhart Gordon,
Hon. Sec'y.

No. 11.

Memorandum from N. Robertson, County Treasurer of the County of Bruce.

Re The collection of arrears of taxes on lands that have become occupied.

The Assessment Act, sec. 155, sub-sec. 2, says:—"On or before the 15th September, in the then current year, the County Treasurer shall return to the clerk of each local municipality . . . *an account* of all arrears of taxes due, etc." Attention is drawn to the above clause owing to the various interpretations put upon it. Some county treasurers understand it to mean that after rendering the above account of arrears of taxes as shown

in their books, their duties to collect the said arrears cease and therefore mark out of their books all taxes shown in said return or account. The responsibility of collecting being transferred to the officials of the local municipality. Other county treasurers, resting upon section 160, sub-sec. 2, hold that the clause "The collection of arrears shall thenceforth belong to the treasurer of the county alone," means that from the time the arrears of taxes of the current year are charged against the lands in the books of the county treasurer his duties are continuous until collection is effected and do not cease when said return is made to the clerk of the local municipality and that local officials when making collection of arrears of taxes (as in sec. 155, sub-sec. 2 and 3, sec. 156 and 171.) do so as sub officers responsible to the county treasurer.

The practice of the first mentioned class of county treasurers necessitated the passing of an amendment to the section under consideration, changing the date on which the county treasurer is to make return of said account of arrears of taxes, (58 Vict. chap. 47, sec. 8) from July 1st to September 15th. The argument used when this amendment was proposed, was to the effect, "That from the time the county treasurer made his return of arrears, until the roll was placed in the hands of the collector there was no one to whom taxes could be paid." This argument had no force where the practice of the second mentioned class of county treasurers held, as their books showed what lands had arrears of taxes charged against them from the time the entry was first made until collections was affected, and who also accepted payment of arrears of taxes at any time—even if said returns were in the hands of the local officials, as notice would be sent to them at once when payment was made

Uniformity of practice is desirable and should be established. It is the humble opinions of the writer that the second mentioned class of county treasurers act in the most practical way and in accord with the principle that "The collection of arrears shall henceforth belong to the treasurers of the county alone." (Sec. 160, sub sec. 2). Besides concurring with the practice of town and city treasurers.

In connection with this it would be desirable that Sec. 157, sub-sec. 2, be amended to the effect that, the local treasurer make a separate and distinct return of unpaid current year taxes, and of unpaid arrears.

Re Division of a County into Districts for tax sale purposes. (Assessment Act Sec. 182.)

It is desirable that some provision be made for the payment of the extra expenses incurred in conducting tax sales in the districts away from the county town. For instance, the County of Bruce is divided into three tax sale districts. The county treasurer travels 50 miles to Wiarton to hold a sale, then 25 miles further to Lion's head to hold another sale. The expenses incurred in holding the first and adjourned sales in these two places is about $30. The question arises, should this amount be paid by the county at large, (as has been done) or by the local municipalities interested, pro rata on the number of lots offered for sale, or be a charge added to tax sale costs on the lands sold?

Assessment Act, Sec. 184, sub-sec. 3. Re disposal of lands purchased by municipalities at tax sale. A clause might be added to this section directing some stated way by which an effort shall be made to sell such lands, which said section requires to be done. At present in most municipalities a do-nothing policy exists, it being nobody's duty to take actions in the matter. Some municipalities do not even assess such lands, on the supposition that being the property of the municipality they are exempt. Other municipalities do assess such lands, which being returned as non-resident are again sold for taxes at the end of three years and are again purchased by the municipality.

A commission allowed to any township officer who effected a sale might accomplish the end sought.

Re Tax sale titles.

Taxes are an annually recurring obligation which must be paid. When this duty has not been attended to, and to collect taxes lands have been sold as provided by statute, and purchased in good faith, it is desirable that the tax sale purchaser have the assurance that the title so acquired be not readily set aside. The writer has the opinion that the neglectful tax debtor obtains undeserved sympathy in the courts. Tax titles are set aside without consideration of the fact that the original land owner owed a debt for taxes which he failed to pay. While an informality in some detail by one of the

half dozen officials who has had aught to do with the preliminaries of the sale is considered sufficient to void the title.

What the writer would suggest is, to extend the time for redemption with an increasing ratio of per centage to redeem, e.g., Redemption if within one year, the per centage to be 10 per cent. as at present. If within two years, 50 per cent. If within three years 100 per cent. At the end of that period the tax title to be absolute unassailable for any cause except proven fraud—and as regards the Crown. This proposition allows six years from the time the taxes first accrued before the land passes beyond redemption.

All of which is respectfully submitted.

NORMAN ROBERTSON,
Treasurer, County of Bruce.

DOCUMENT OMITTED FROM APPENDIX A. (See page 547).

No. 8.

(*Referred to p.* 108.)

STATEMENT shewing the application of a Business Tax to Real and Personal Property in the City of Hamilton.

—	Personalty.	Realty.	Rental 7 p.c. on realty.	Tax 7½ p.c. on rental.	Taxes now paid.
Retail	$642,840	$2,247,020	$157,291 40	$11.796 85	$12,856 80
Wholesale	537,500	390,260	27,318 20	2,048 87	10,750 00
Manufactory	2,062,090	1,422,740	99,591 80	7,469 38	41,241 80
Hotel	42,100	523,140	36,619 80	2,746 48	842 00
Distillery	153,040	67,800	4,746 00	355 95	3,060 80
Total	$3,437,570	$4,650,960	$325,567 20	$24,417 53	$68,751 40

BINDING SECT. AUG 23 1967